S. Hrg. 100-955

AMEND THE MERCHANT MARINE ACT, 1920

HEARING

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S. 2728

TO PERMIT COAL TO BE TRANSPORTED IN FOREIGN FLAG VESSELS BETWEEN THE STATES OF ALASKA AND HAWAII WITHOUT REGARD TO SECTION 27 OF THE MERCHANT MARINE ACT, 1920

S. 2729

TO ALLOW CERTAIN FOREIGN-FLAG VESSELS TO CARRY PASSENGERS AMONG PORTS IN ALASKA AND BETWEEN POINTS IN ALASKA AND SEATTLE, WASHINGTON

SEPTEMBER 28, 1988

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CONTENTS

Page
Opening statement by Senator Breaux 1
Opening statement by Senator Stevens 2
Opening statement by the Chairman 3
Opening statement by Senator Inouye 3

Text of bills:

S. 2728 5
S. 2729 6

LIST OF WITNESSES

Corrado, Ernest J., president, American Institute of Merchant Shipping 71
    Prepared statement 73
Creelman, William A., Deputy Maritime Administrator, MarAd; accompanied by Robert Christie, Chief, Division of Domestic Ocean Shipping; and Robert J. Patton, Jr., Deputy Chief Counsel 15
    Letter of October 25, 1988 29
    Questions of Senator Inouye and the answers 29
Evans, Hon. Daniel J., U.S. Senator from Washington 13
Ferry, Hon. Ted, Mayor, Ketchikan, AK 41
Giersdorf, Robert, president, Exploration Cruise Lines 37
Landgrebe, Karl, assistant to the president, National Marine Engineers Beneficial Assn 56
    Prepared statement 58
Murkowski, Hon. Frank H., U.S. Senator from Alaska 7
Ostrovsky, Eric H., associate director, commerce and transportation, Governor's office, State of Alaska 45
    Prepared statement 47
Park, Jack M., vice president, governmental relations, Crowley Maritime Corp 63
    Prepared statement 65
Pecquex, Frank, Seafarers International Union of North America 67
    Prepared statement 69
Reurs, John, chairman, New York Committee of the International Committee of Passenger Lines 35
    Prepared statement 36
Sims, John, vice president for marketing, Usibelli Coal Mine, Inc 43

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Aronson, Henry, Port of Seattle, WA., statement 94
Crosby, Michael, letter 105
Farrell, Joseph, president, American Waterways Operators, letter 103
Foss, Maritime Co., statement 95
Grill, Philip M., vice president, government relations, Matson Navigation Co., Inc., statement 83
Harrison, Don, president, Grater Ketchikan Chamber of Commerce, letter 105
Henry, James L., president, Transportation Institute, statement 91
Hudson, Bill, Alaska State representative, letter 107
Johnson, Arthur L., letter 101
Johnson, Jim, Puget Sound Cruiseship Alliance, statement 93
Lowen, Robert J., president, International Organization of Masters, Mates, & Pilots, ILA, AFL-CIO, statement 88
Moore, David E., president, Greater Sitka Chamber of Commerce, Inc., letters 98
Neimeyer, Fern, mayor, Wrangell, AL, letter 106
Rice, Leeta, executive director, Ketchikan visitors Bureau, letter 102
Royer, Hon. Charles, mayor, Seattle, WA., statement 85
Ryan, George J., Lake Carriers' Assn., statement 86
Schmidt, Sanford V., vice president, American Trading Transportation Co., letter 97
Shepard, Les, letter 100
Stocker, John J., president, Shipbuilders Council of America, statement 85
Totem Ocean Trailer Express, Inc., statement 87

AMEND THE MERCHANT MARINE ACT, 1920

WEDNESDAY, SEPTEMBER 28, 1988

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:03 a.m., in room SD–562, Dirksen Senate Office Building, Hon. John B. Breaux (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Barry Kalinsky, staff counsel and Earl Comstock, minority professional staff member.

OPENING STATEMENT BY SENATOR BREAUX

Senator **BREAUX**. The committee will please come to order.

This morning, the committee is considering two pieces of legislation which grant exemptions from the requirements of our cabotage laws.

S. 2728 creates an exception to the Jones Act by permitting coal to be transported in foreign flag vessels between the State of Alaska and the State of Hawaii.

S. 2729 grants an exemption to the Passenger Ship Act by providing for the transportation of passengers in Alaska and between points in Alaska and Seattle, WA, in foreign-flag cruise ships.

While I certainly understand the motivations behind both of these measures, I also think it is important to recognize the importance of the cabotage laws in our national maritime policies.

The purpose of these laws is to assure reliable domestic shipping service and the existence of a maritime capability that is completely subject to national control in times of national emergency. Vessel construction in domestic shipbuilding and repair yards helps to sustain these critical national mobilization resources.

Requirements for U.S. crews provide employment and develop a cadre of trained and experienced seafarers.

Today, the Jones Act serves as the cornerstone of our maritime policy and is the essential element in our national effort to create and maintain strong maritime and shipbuilding industries.

I would like to note that the Commission on Merchant Marine and Defense, in their second report to the President, recommended that the administration and the Congress should support the existing cabotage laws and should resist attempts to weaken or to eliminate them.

Furthermore, the Commission found that the costs of the cabotage laws are reasonable in comparison with the economic security that they provide to our domestic trade, and that the law contributes significantly to providing the maritime resources to our national defense requirements.

In today's world, exceptions to a law have a tendency to eventually weaken or undermine that law. The cabotage laws are too important to our national maritime policy that we should not run the risk of having a weakening of that law occur.

I wish to welcome our witnesses. I look forward to hearing their testimony.

I am joined by our two distinguished Alaska Senators, and Senator Stevens, of course, is a Member of this Committee.

I would ask if he has any comments at this time.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Mr. Chairman, I want to thank you for holding this hearing, which is being held at Senator Murkowski's request.

I would like to make just a short statement, if I may. I am on two conference committees that are meeting, and I am going to have to leave.

Let me say that I would like to ask you to request the Maritime Administrator to provide the committee, for the record,[1] a list of each of the exceptions that have been made to the Jones Act since its enactment, and just a one line statement of the purpose for which that exemption was granted.

I think that it would be enlightening to Members of the committee to have that information.

My memory is that there have been a substantial number of exemptions similar to the ones that Senator Murkowski is now seeking, and I think rightly seeking, to facilitate trade between the two offshore States, who have conditions that do not exist in the South 48. It is my opinion that the Jones Act was written for the South 48, before anyone had any concept that there would be the offshore States of Hawaii and Alaska.

We face a different economy. We face a different maritime problem than any other State, with half the coastline of the United States, in dealing with our southern neighbor—truly southern, as you know. A line through Anchorage would go directly through Honolulu. Most people do not realize our position in the Pacific as far as the Alaska-Hawaii trade.

It is a North-South trade. It is not an East-West trade. Therefore people should understand what we are trying to do in relationship to the proposal that Senator Murkowski made.

I ask that you request that information, if you would, and I would like to yield to my friend and colleague and ask you to excuse me from this hearing so that I can go to the conference.

Senator BREAUX. Certainly.

Without objection, the committee will make that request of the Maritime Administration.

I have statements from the Chairman and Senator Inouye that will be included in the record along with the bills.

[The statement and bills follow:]

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[1] See p. 31.

OPENING STATEMENT BY THE CHAIRMAN

This morning, the Committee will consider S. 2728 and S. 2729, two measures that would legislate exceptions to our cabotage laws so that foreign-flag vessels would be permitted to ship coal between Alaska and Hawaii and a foreign-flag passenger service could be established between Alaskan ports and Seattle, Washington.

Our cabotage laws, collectively referred to as the Jones Act, preserves the coastwise trade to U.S.-built, U.S.-crewed and U.S.-documented vessels. The Jones Act strengthened existing law which had, since 1789, encouraged the use of U.S.-built, U.S.-owned ships in coastwise trade. It was originally motivated in part by the desire, as expressed by the Senate Commerce Committee's report, to build up the American merchant marine "commensurate with our wealth, power, and standing among the nations of the world." It was also motivated by the more practical desire to avoid a repetition of American experience during World War II, when the shortage of U.S.-flag shipping and the preemption of foreign-flag shipping by the demands of the war made it difficult for many American shippers to have their cargoes delivered.

Today, the Jones Act serves as the foundation for our national maritime policy by assuring reliable domestic shipping service and providing a ready fleet of vessels for use during times of war or national emergency. Without the protection of the Jones Act, our national defense capability would be severely hampered because of the lack of available vessels that would be necessary to meet our sealift requirements.

The Jones Act is so essential to our national interest that the law specifies only one ground for an administrative waiver, and this is for appropriate defense-related circumstances. Congress, of course, may grant legislative waivers, and from time to time has done so by enacting private bills identifying the individual vessels with unique circumstances and setting out narrowly defined terms, and conditions, including citizenship requirements.

With this background in mind, I must express reservations about any exception to our coastwise laws, absent an overriding national defense justification. However, I would be pleased to hear the testimony today on the need for an exception in this case.

OPENING STATEMENT BY SENATOR INOUYE

The two measures which the Subcommittee is considering this morning would provide limited exemptions from our cabotage laws which require passengers and cargo moving among U.S. ports to move on vessels built in the United States, documented U.S. with 75-percent U.S. stock ownership, and manned by U.S. citizens.

One bill (S. 2728) would permit coal to be transported in foreign flag vessels between the States of Alaska and Hawaii in an effort to create a market for Alaskan coal in Hawaii. The other measure, S. 2729, would allow foreign-flag vessels to carry passengers among ports in Alaska and between points in Alaska and Seattle, Washington. Currently, no U.S.-flag cruise vessels are available to serve these markets. As a consequence, according to the author of the bill, thousands of tourists who would otherwise sail to Alaska from Seattle, sail from neighboring Canadian ports, and the Seattle economy is deprived of a very substantial amount of tourism income.

The objectives of both these measures are commendable, and would serve the national interest if in fact they strengthen the economies of Alaska and the Seattle area, as intended. In considering them however the Subcommittee should balance the particular objectives they seek to achieve against the national interest objectives of United maritime policy as particularized in our cabotage laws—i.e., a strong merchant marine capable of serving as our fourth arm of defense, and of carrying all of our domestic waterborne commerce. When we do, I believe that national security considerations and the economic interests of the entire country require that balance to be struck in favor of our national maritime policy and the cabotage laws which implement it.

This is never an easy decision, and the choice is rarely clear cut. As a consequence of our cabotage laws, foreign products shipped on foreign-flag vessels often have a competitive edge in our domestic markets; and, in other instances, there may be no Jones Act transportation available, as in the case of cruises between Seattle and Alaska.

If we legislate piecemeal exemptions from the Jones Act, however, we risk creating a precedent everytime a U.S. industry maintains it is adversely affected by it. Soon our cabotage laws will be meaningless, and the national interest objectives they are intended to further will be undermined.

Indeed, we may have already created a precedent in the case of cruise vessels. In 1984 Congress enacted legislation permitting foreign flag vessels to transport passengers between ports in Puerto Rico and ports in the United States until the Secretary of Transportation determines that passenger service is available on Jone Act vessels. While I did not support that legislation, when the "bumping" provision was added I no longer actively objected to it. While my opposition to these piecemeal exemptions continues for the reasons I have stated, in the next Congress I would, however, be willing to consider a narrow measure like S. 2729, if it had the strict "bumping" provision which applies in the case of the exemption in the United States-Puerto Rico passenger trades.

I regard S. 2728 differently, however.

Unlike cruise vessels there is no precedent for a permanent Jones Act exemption for coal carriers.

An exemption for foreign-flag coal carriers would mean that these vessels would be able to do what subsidized U.S.-flag vessels cannot do, i.e., serve our Jones Act trades.

The possibility of creating an Hawaiian market for Alaska coal if this measure is enacted is conjectural at best.

Accordingly, and again for the reasons stated earlier, I am opposed to S. 2728.

I have long believed that if such an essential part of our maritime policy as the cabotage laws should be changed, it should be done after thorough study and deliberation by Congress. I continue to hold that view, and would be pleased to support such an effort.

100TH CONGRESS
2D SESSION

S. 2728

To permit coal to be transported in foreign flag vessels between the States of Alaska and Hawaii without regard to section 27 of the Merchant Marine Act, 1920.

IN THE SENATE OF THE UNITED STATES

AUGUST 10, 1988

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

A BILL

To permit coal to be transported in foreign flag vessels between the States of Alaska and Hawaii without regard to section 27 of the Merchant Marine Act, 1920.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective on and after the date of the enactment of this Act, the provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) shall not apply in the case of a foreign flag vessel while engaged solely in the transporting of coal between the States of Alaska and Hawaii.

100TH CONGRESS
2D SESSION

S. 2729

To allow certain foreign-flag vessels to carry passengers among ports in Alaska and between points in Alaska and Seattle, Washington.

IN THE SENATE OF THE UNITED STATES

AUGUST 10, 1988

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

A BILL

To allow certain foreign-flag vessels to carry passengers among ports in Alaska and between points in Alaska and Seattle, Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 8 of the Act of June 19, 1886 (46 U.S.C. 289), or any other provision of law, passengers may be transported in foreign-flag vessels between points in Alaska, between points in Alaska and Seattle, Washington, and between Seattle, Washington, and points in Alaska, except in vessels—

(1) of less than 1,000 deadweight tons; or

(2) which regularly carry for hire both passengers and vehicles or other cargo.

(b) For the purposes of this section, the term "foreign-flag vessels" does not apply to Canadian vessels authorized to operate under the Act of June 30, 1961 (46 U.S.C. 289b).

Senator BREAUX. I now would recognize the sponsor of the bills pending before the Committee for any comments that he might have at this time, the Senator from Alaska.

Senator Murkowski.

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Senator Breaux. I very much appreciate your willingness to adjust your schedule and make this time available. I am sorry that Ted had to leave, but I understand, and I think his comments are most appropriate with regard to the exceptions.

In my testimony this morning, I will briefly mention the specific exemptions that the Jones Act has already been subject to, and hopefully we can get a better idea of some of the history.

As we all know, there are certainly strong arguments for bringing this matter to an open forum.

I think, Senator Breaux, in your gracious consent to chair this hearing, you have given us an opportunity to readdress the issue in its entirety.

We have, I think, stimulated a dialog with this legislation, and I think that is worthwhile.

Some changes already have been made. I want to make it clear from the beginning, very clear, that I am looking for alternatives that would benefit U.S. business, while continuing to meet the valid concerns of U.S. maritime interests.

In fact, I have already made at least one change to each bill. S. 2728 has been amended to cover the shipment of any U.S.-mined coal to Hawaii, not just from Alaska but from any U.S. port.

S. 2729 has been changed as well, to allow any U.S. port to compete for cruise ship business going to Alaska, not just Seattle. Copies of that language are available, I understand, at the back table.

I am also considering other changes, such as the inclusion of "savings" or some "sunset" concept provisions in either or both bills, basically to insure that we do nothing to reduce incentives to bring U.S. vessels into service. These could be structured in a number of ways to provide that coastwise-qualified U.S. vessels that enter into these trades in the future would not be the victims of unfair competition.

Finally, I want to make it very clear that I do not want to weaken the Alaska Marine Highway System by any means. The Marine Highway System presently serves many coastal areas of Alaska. That is the reason that in S. 2729, we have exempted only vessels which carry passengers, not vessels carrying both passengers and either cargo or vehicles or both.

If necessary, report language can be added to clarify this matter.

Now, as to other amendments, I want to assure all concerned that we are very open to their suggestions. That is the purpose of this hearing.

I would like to make reference to the Jones Act itself and the action that was taken in the State of Alaska in 1984. By a vote of 116,891 to 78,663, the citizens of the State of Alaska passed a referendum requiring the Governor of our State to lobby Congress for repeal of the Jones Act. That vote was certainly an indication that Alaskans feel very strongly that the Jones Act unfairly restricts trade and commerce in the State of Alaska. And perhaps well they should. Studies have indicated that the Jones Act costs Alaska anywhere from $163 million per year to as much as $647 million per year.

Now, I also want to make it very clear that despite this action taken in a referendum within the State of Alaska, I personally, have no desire for the Senate to act hastily on this legislation. These bills intentionally were introduced late in the session, as a means of raising the issue prior to the introduction of new legislation in the 101st Congress.

I can also assure all concerned that I will support additional hearings on next year's bills before any action is taken.

I think it is quite evident, Mr. Chairman, that the introduction of new legislation in the 101st Congress would mandate additional hearings.

It should be absolutely clear as well, that it is not my intent to eliminate either the Jones Act or the Passenger Service Act. I am sensitive to the concerns of those shipping companies, such as Sea-Land, TOTE, APL, Crowley, Foss, and other U.S. carriers, who have made large investments to comply with current maritime law. They must be protected; their interests must be protected.

I am also aware of the concerns of maritime unions and of the nonunion mariners. Current jobs and investments must be maintained, and I guarantee my continued support of that concept.

Besides, imagine for a moment the potential liability of the Federal Government if we were to do away with U.S. operators who built U.S. ships in U.S. yards and employ U.S. sailors to comply with U.S. laws. It just is not going to happen, and I am one who will work to insure that it does not happen.

However, I think together we can craft a measure that corrects the inequities that now exist, while preserving the integrity of the U.S. merchant fleet and protecting the interests of American workers. That will be a measure on which I will proudly work with my colleagues to introduce early in the next Congress.

Just what is the act that Alaskans want to repeal?

The Merchant Marine Act of 1920, more commonly known as the Jones Act, was enacted on June 5, 1920. The bill was sponsored by Senator Wesley L. Jones of Washington State, and set the basis for U.S. maritime law. Section 27 of the act dealt with coastwise trade.

I think it must be understood that the Jones Act did not establish cabotage as a U.S. policy. It merely reaffirmed and expanded a preexisting policy by reserving domestic waterborne commerce to U.S.-built and operated vessels and extending U.S. coasting laws to cover territories and possessions, including the Commonwealth of Puerto Rico and the Territory of Guam. It does not apply to the U.S. Virgin Islands or American Samoa.

The Passenger Service Act is distinctly separate from the Jones Act, although both are part of the overall body of U.S. maritime law.

For one thing, it was enacted in 1886, substantially predating the Jones Act proper. Then, too, the Passenger Service Act is substantially simpler. On its face, it does not prohibit—it does not prohibit—foreign vessels from transporting passengers between U.S. ports. Originally, surprisingly enough, it only established a $2 per passenger penalty for doing so.

In 1898, however, the penalty was increased from $2 to $200—there must have been a little inflation going on at that time—per passenger, and in 1940, a legal determination was made that its purpose was to exclude foreign vessels from domestic trade.

There are those who argue that the Jones Act and the Passenger Service Act both must be preserved from any change because any change might weaken the domestic industry. Well, this is the "camel's nose under the tent" theory, also known in some circles as the "domino effect." Frankly, this argument has so many holes that no bilge pump ever made could keep it afloat, in my opinion.

In the first place, it ignores the fact that Congress has an obligation to weigh the effects of current laws, as well as those newly proposed. We don't have to make sweeping changes. But when a law is only partially successful or partially meaningful, we should not be afraid to adjust the laws as we have in the past.

In the second place, the historical record itself argues against the idea that any change is necessarily bad. Since their enactment, there have been numerous exceptions to both the Jones Act and the Passenger Service Act, all of which we have managed to live through.

The Jones Act itself contains several provisos, most of which are exceptions to the rule.

If we go back and look at Proviso one and two, they were designed to close loopholes in the act. The first prohibits any U.S. vessel sold to a foreigner or operated under a foreign flag from ever regaining coastwise privileges. The second requires that any vessel rebuilds take place in U.S. yards. Even these have been altered on occasion, however. In fact, two of the three U.S.-flag cruise ships now serving the Hawaiian Islands had to be allowed an exemption from the first proviso before they could operate there. They were sold overseas, were originally U.S. vessels. They were reconverted in yards in Taiwan and brought back by congressional action, to be allowed to serve within our U.S. domestic fleet in compliance with the Jones Act.

The third proviso, one of the original exceptions, exempts merchandise transported from the lower 48 States to Alaska, along routes recognized by the Interstate Commerce Commission and for which rate tariffs are established, when the merchandise travels part of the way on Canadian rail lines and part on the lines' own or a connecting maritime service.

In 1986, as a matter of fact, 63,000 tons of cargo were carried to Alaska on foreign-built vessels under this third proviso.

The fourth proviso, also a part of the original bill, exempts traffic on the Yukon River until the Secretary of Transportation finds that proper transportation facilities have been established by U.S. citizens. This proviso is still in effect, and Yukon River carriers have used Canadian-built barges to provide service within Alaska.

The fifth proviso provides a limited exemption for rail car ferries on the Great Lakes.

The sixth proviso exempts vessels carrying empty shipping containers and other equipment.

The seventh and eighth provisos exempt both cargo transported after consolidation on lighter-on-board barges moving in the foreign trade, and contained cargo with a foreign origin or destination.

Later amendments include the transportation of hazardous waste for incineration at sea under the Jones Act, but exempts foreign-built vessels built before a certain date, and an exemption for manufacturing supplies carried aboard U.S. fish processing vessels.

Numerous other laws also affect the scope of the Jones Act.

For example, in 1937, the U.S. Virgin Islands were exempted from the act. In 1978, the American Maritime Association challenged this exemption as it applies to the shipment of crude oil from Valdez, Alaska, to the U.S. Virgin Islands. In this case, the specific amount of crude oil shipments totalled approximately 100,000 barrels a day, and we understand there are about 25 to 30 sailings per year, an average of at least 2 a month, of various vessels, with some eight vessels involved in the carriage of Alaskan North Slope crude oil from Valdez to St. Croix. That is a substantial amount of tonnage.

In 1947, an exemption was enacted for Canadian vessels serving Southeast Alaska and allowing them to carry goods between Hyder, Alaska, and other U.S. ports.

In other instances, temporary exemptions have been given for the shipment of lumber to Puerto Rico, to allow Canadian vessels to transport coal to Ogdensburg, New York from other points in the United States, and to allow Canadian vessels to carry iron ore between U.S. ports.

As stated before, the Jones Act and the Passenger Service Act have distinctively different functions, but the latter also has been subjected to a number of adjustments and exceptions.

A 2-year exemption for passenger ships operating between the U.S. mainland and Hawaii was adopted in 1920. This exemption was not renewed, but, as previously mentioned, two out of three cruise ships now active in Hawaii received special exemptions allowing them to operate there.

In 1938, an exemption was adopted for Canadian vessels carrying passengers between Rochester, NY, and Alexandria Bay, NY. The exemption allowed such vessels to obtain annual permits to operate until an American service was established.

In 1984, an amendment allowed foreign vessels to carry passengers between ports in Puerto Rico and other U.S. ports. This exemption was designed to end if U.S. vessels offer service, but to be reinstated if they stop.

So far, the exemption is still in effect.

In my own State of Alaska, a 1949 amendment added a passenger exemption to the 1947 temporary Jones Act waiver mentioned earlier, which allows Canadian vessels to serve between ports in southeastern Alaska, and between Hyder, Alaska and ports in the lower 48. This temporary measure was reauthorized every 2 years until 1981, when it was made permanent, so long as a U.S. service is not provided. Then it is done away with.

Then there was even a 1978 amendment—no longer in effect—allowing a 5-year exemption for passengers or cargo transported within Alaska aboard foreign-built hovercraft.

In addition to all the exemptions listed above, there have been numerous occasions when coastwise privileges have been extended for specific purposes. These have included such things as a 5-year exemption allowing the State of Alaska, as our Alaskans will recall, to operate the foreign-built ferry *Wickersham*.

During the 99th Congress, the Senate passed legislation sponsored by my senior colleague, Senator Stevens, allowing foreign-built cruise ships to be reflagged and operated in the U.S. coastwise passenger trade, unless at least two coastwise-qualified vessels were "substantially complete" by September 1, 1988. Well, none were, and the only reason that the bill is not law today is that the House made unacceptable changes and there was not enough time to work out the differences with that body.

Just this spring, in fact, an exemption sponsored by my colleague, Senator Breaux, was granted for foreign-built launch barges used in offshore oil development. This was justified by the lack of U.S. built craft.

There is nothing wrong with these exemptions, and I am sure each one was well justified. But I am also sure that at the time, there were interests which opposed many of them, saying they were sure to cause the U.S. merchant marine fleet to collapse.

Obviously that has not been the case.

The real question is the propriety of amending our laws to create more U.S. jobs and expand the activity of our ports, rather than sending the business to foreign competitors. Perhaps, as in past exemptions, a temporary change is in order until domestic carriers initiate operations. Would it be harmful? I don't think so.

Senate bill 2728 is simply a way to help American coal producers seize an opportunity emerging in the State of Hawaii.

Hawaii currently purchases its coal from foreign countries. It consumes 63,000 metric tons of coal per year, a relatively small amount, I grant. However, its consumption is about to go up to 1.2 million metric tons per year, as a result of a new plant on Oahu coming on line in 1992. There are no current U.S-flag coal ships operating, to our knowledge, in the Pacific, and the economics of the situation dictate that Hawaii continue to buy foreign coal from foreign carriers.

This bill, to provide an exception for U.S. coal carried from U.S. ports, helps us focus on the dilemma that is there: should we try to encourage U.S. jobs in our U.S. coal mines, our railroads and our ports, or should we continue simply to let the coal be supplied by foreign nations?

Maybe there are other alternatives, such as subsidizing the costs of vessel construction so U.S. coal can go to Hawaii and enhance U.S. jobs, or just opting to maintain the status quo. That appears to be the dilemma we have.

So I think it is appropriate that we focus on it, and those who are concerned about an exemption to the Jones Act must recognize that we also have a concern: one about expanding coal into the Pacific Rim markets. Hawaii is a good place to start. I think everybody has the obligation of making some constructive suggestions.

So I think those witnesses who are critical of the proposal really have an opportunity to recommend some practical alternatives. The status quo is just an easy cop-out.

Turning to the matter of cruise ships, we have to recognize that foreign flag luxury vessels are currently carrying a little over 200,000 passengers, tourist passengers, to Alaska each year. Most of the passengers are, as a matter of fact, U.S. citizens. They are on a dream trip to Alaska. They want to make the most of their time by combining a cruise of the famous inside passage with a trip to Alaska's interior to see Mount McKinley and other interior sites.

The Passenger Service Act—as opposed to the Jones Act—prevents the only vessels involved in this trade from sailing out of a U.S. port unless their passengers are willing to make a round trip.

In business, you have to sell what the customer wants, so most of the vessels are forced to begin and end one-way voyages at Vancouver, BC, which is the most convenient foreign port.

So, we have a situation where, when Mr. and Mrs. Tourist fly into the Seattle-Tacoma International Airport, the chances are they will be hustled aboard a bus, taken over the border, and will wait for their ship in Vancouver. Their presailing hotel, overnight accommodations, restaurant, entertainment, and gift shop dollars are spent in Vancouver and contribute nothing whatsoever to the U.S. economy.

Of course, when their ship sails, it carries some supplies bought in the United States and trucked to Vancouver to be loaded by Canadian longshoremen, but much more, including fuel, goods, ship chandlering, purchased in Canada.

The cash flow in the cruise industry is developing at a very rapid rate, and so are the benefits to the port cities. According to some Canadian Government sources, direct benefits to Vancouver, BC, may be reaching as much as $216 million per year under present volume.

Even the most conservative estimates put Vancouver's direct benefit at a figure in excess of $31 million.

Further, amending the Passenger Service Act along the lines indicated in this bill would allow at least the possibility of two small foreign ships currently sailing from Prince Rupert, BC, to move their operations to Ketchikan, AK. From Ketchikan, they could operate to other ports in the southeast, creating more activity for local airlines, hotels, lodges, restaurants, longshoremen, cargo handlers, and so forth.

As a matter of weighing protection and benefits, we really should be asking ourselves: who are we protecting and who does our policy really benefit?

Vancouver certainly deserves a shot at those tourist dollars, but do not U.S. ports and U.S. workers deserve to compete for these potential jobs as well?

The current situation would perhaps be understandable if we were protecting, in reality, enough American jobs to make it worthwhile. But that really is not happening. And, judging by results, we do not seem to be encouraging the creation of any new American jobs, either.

I hear the arguments of U.S. shipyards very well. But the fact is that our yards will not be getting orders for U.S. passenger ships as long as foreign ships can be built and operated at a lower cost. There have been no major U.S. liners built in the United States since the S.S. *United States* was built in the 1950's. The only way we can operate successfully in the large vessel arena is through a closed-circle operation such as a cruise around the Hawaiian Islands, or by subsidizing our operations to whatever extent we are willing to appropriate funds for U.S. operators in the cruise business.

So I think this is an opportunity to look at realistic alternatives. Unchanged, our present law simply puts a pointless barrier between U.S. companies and their potential customers.

I do not think that is good public policy. It is not something to be proud of.

I think it is time to examine the merits of making a change.

I, along with Senator Breaux, look forward to hearing the testimony of our participants today.

Senator, I have a number of pieces of material coming in from witnesses who cannot be here during the course of the hearing.

Senator **Breaux**. We certainly would be happy to receive that information.

Senator **Murkowski**. I apologize for my lengthy opening statement, but I wanted to set the parameters so that everybody would understand just where we are coming from in this legislation.

Senator **Breaux**. Thank you very much, Senator. It is a detailed explanation and we thank you for presenting it.

We have just been joined by the Senator from Washington, Senator Evans.

Senator Murkowski, has just given us an outline the background of the legislation he is proposing.

Senator Evans, do you have a statement?

STATEMENT OF HON. DANIEL J. EVANS, U.S. SENATOR FROM WASHINGTON

Senator **Evans**. Thank you, Mr. Chairman, for the opportunity to speak.

I do not serve on the committee, but I have a very, very important interest in this subject matter, particularly in the elements of it relating to the cruise ship industry.

I have read Senator Murkowski's statement in its entirety. I think it sets forth very well the history, the exceptions to the Jones Act, and the current situation as it relates to the cruise ship industry. I would hope that this hearing and what results from it will act as a stimulus to try to arrive at an answer that is in the best interests of both the maritime industry of the United States and the opportunities for economic advancement in the Pacific Northwest and Alaska.

I do not think they are necessarily in total opposition one to the other. If we are smart enough, we ought to be able to figure out some better answers than the current situation. In essence, it is driving a very substantial, potential economic benefit to Canada, and away from Seattle and other Puget Sound ports.

If the end result of current positions on all sides is at a stalemate, we have just contrived to shoot ourselves in both feet. This being the case, we will not have added very much to our own current status in the maritime industry, or anything else, for that matter, and at the same time not opening opportunities for a very substantial addition to the economy of the Pacific Northwest and to the potential job opportunities.

That is what I hope we can achieve through this hearing.

I do not think it is so much the specifics of the bills which are important, but rather that they are a base from which we can operate to find a suitable answer all the way around. Although I will not serve in this body during the next Congress, I would be terribly disappointed if legislators could not reach a solution to the longstanding problem in a way that would serve the best interests of everyone in the Pacific Northwest. In doing so, the best interests of the millions—millions—of tourists would also be served. People from all parts of the United States, would like to visit that lovely part of the nation, the inland passage between Alaska and the State of Washington. They can do that now, but essentially only by being forced—I guess this is what you would call "forced busing." It is a fact that a significant portion of tourists, come into Seattle and then are put on buses to Vancouver, BC. All of the economic benefits that come with the shipping, the loading of the ships, the supplying of the ships, the passengers on the ships flows to Vancouver rather than to American ports.

Senator **Breaux**. Thank you very much, Senator.

I would welcome our first panel of witnesses: Mr. William Creelman, who is Deputy Administrator for the Maritime Administration and his colleagues.

We would ask you to summarize so that we may get to our questions.

We are glad that you are here and look forward to hearing your testimony.

STATEMENT OF WILLIAM A. CREELMAN, DEPUTY MARITIME ADMINISTRATOR, MARITIME ADMINISTRATION, DOT; ACCOMPANIED BY ROBERT CHRISTIE, CHIEF, DIVISION OF DOMESTIC OCEAN SHIPPING; AND ROBERT J. PATTON, JR., DEPUTY CHIEF COUNSEL

Mr. CREELMAN. Mr. Chairman and members of the Subcommittee on Merchant Marine, I am William Creelman, and I am the Deputy Maritime Administrator.

Senator MURKOWSKI. Would you pull the microphone a little closer, please.

Mr. CREELMAN. OK. I am the Deputy Maritime Administrator of the Department of Transportation.

I am joined today by two colleagues, Mr. Robert Christie, on my left, Chief of the Division of Domestic Ocean Shipping of the Maritime Administration, and, on my right, Mr. Robert Patton, Deputy Chief Counsel.

I am pleased to appear before you this morning to present the views of the administration on the two bills before the subcommittee.

The first bill, S. 2728, would amend the Jones Act to permit the transportation of coal from Alaska to Hawaii in vessels of other than U.S. construction and documentation.

Mr. Chairman, we have stated on numerous occasions before this Committee that the administration staunchly supports the coastwise laws.

While the proposed legislation would affect a trade that does not presently exist, we believe that qualified U.S. vessels are available and should continue to have exclusive access to all domestic trading opportunities.

Eligible dry bulk vessels, both ships and barges, presently exist that are physically capable of moving coal between the two States, and others could readily be constructed if subsequently required by an eager U.S. shipbuilding industry.

Although certain of the existing vessels have long-term commitments, others presently operating in the spot market or idle could be expected to embrace the chance for a long-term charter.

We appreciate the initiative of the Alaskan coal industry in cultivating a domestic market, but the continued maintenance of U.S. sealift capability must not be jeopardized by denying U.S.-flag vessels access to new business opportunities. Accordingly, the administration must oppose S. 2728.

The second bill, S. 2729, would amend the Passenger Service Act of 1886 to permit foreign-flag cruise vessels of at least 1,000 gross tons to operate among ports in Alaska and between Alaskan ports and Seattle, WA. Vessels which regularly carry both passengers and vehicles or other cargo for hire would not be eligible.

Under present law and U.S. Customs Service regulations, foreign-flag cruise vessels may operate round-trip cruises from U.S. ports provided that the itinerary includes at least one call at a nearby foreign port, and that no passenger permanently disembarks before the end of the voyage at the original U.S. port. If a call is made at a more distant foreign port, such as one in Japan, passengers may subsequently permanently disembark at any U.S. port.

Foreign vessels may also embark passengers at a U.S port and permanently disembark them at a foreign port, and vice versa.

If S. 2729 were enacted, foreign vessels would be able to provide direct point-to-point passenger transportation within Alaska and between Seattle and Alaskan ports, and they would not have to call at a foreign port in the course of a voyage, as is presently the case.

However, we are unable to see what significant economic benefits to Alaska would occur if this legislation were enacted.

One major foreign-flag cruise ships operator regularly sails from Seattle to Alaskan ports, making a mandatory stop in Canada. The only real differences if this bill were law would be that the passengers could permanently disembark in Alaska, and foreign-flag cruise ships could sail intra-Alaska.

On the Seattle-Alaska cruise, it does not seem likely that many cruise passengers would opt for a one-way voyage. Canada-Alaska cruise passengers could do that today, legally. There does not appear to be any market for such service.

As to the intra-Alaska voyages, this legislation could encourage some expansion of that trade. It might also induce the existing U.S.-flag operator to flag his vessels foreign.

There is presently one private operator of U.S.-flag vessels in the Alaska cruise trade, Exploration Cruise Lines. The firm runs four small vessels on cruises of 2 to 7 days among ports in southeastern Alaska.

The Department of Transportation of the State of Alaska also operates a U.S.-flag public passenger and vehicle ferry service, the Alaska Marine Highway System. This links various Alaskan ports with one another and with Seattle.

The bill's language would protect these two operators from direct foreign competition, but with certain limitations: that is, only as long as the U.S.-flag vessels are less than 1,000 deadweight tons or if the foreign-flag vessels regularly carry both passengers and vehicles or other cargo.

For example, should Exploration wish to run larger vessels under the U.S. flag, it would confront foreign competition.

Similarly, a foreign vessel could presumably provide either an exclusively passenger or an exclusively vehicle or cargo service over routes served by the Marine Highway System, or could provide an occasional combination service.

Mr. Chairman, the administration is also opposed to S. 2729. Enactment would provide no visible benefit to the U.S. merchant marine or shipbuilding industry. It would thoroughly discourage any new business initiatives using U.S. ships in the trade.

This concludes my prepared remarks, Mr. Chairman. I would be glad to answer any questions.

Senator **Breaux**. Thank you, Mr. Creelman.

With regard to the coal bill, which the administration opposes, you point out that there are qualified U.S. vessels, available. Can you tell us which ones would be available and just a ballpark figure, if you can, as to if they were available, what the differential in cost would be in shipping coal.

Mr. **Creelman**. I can't give you a comprehensive list as to which vessels would be available. I know of a couple of individual cases. One that comes to mind is the vessel, the ocean barge *Oceanport,* which the Maritime Administration became the proud possessor of at a marshal's sale last week.

That is a vessel that can carry about 30,000 tons of coal.

Senator **Breaux**. What about the cost differential in using a U.S. vessel in that trade, as opposed to the foreign-flag vessels.

Mr. **Creelman**. Given the fact that that vessel's capital cost as a result of its default and subsequent resale is significantly less than its original cost, and, given the fact that it is a tug-barge operation, rather than a ship operation, I think the costs would be very competitive.

Senator **Breaux**. Do you have any reason to believe there are other reasons why we are not selling coal to Hawaii, other than the fact that there is no availability of foreign vessels to use?

Mr. **Creelman**. I can only speculate on that. The cost of mining coal in various parts of the world, including Alaska, varies tremendously. There is difficult terrain in Alaska. The quality of the coal is very good with respect to sulfur content, very low sulfur content. But I understand that it has also a low Btu content and a high moisture content, which require that a greater tonnage of the product be moved, as compared to certain other coals of different quality.

As a result, the competitiveness of the world's coals sometimes defy distance. We find coal from Australia competing with coal from the United States, at a great distance, often.

Senator **Breaux**. So it is your testimony for the committee, with regard to the coal bill that, number one, there are some ships available, and that if coal is not being sold Alaska to Hawaii, there are factors other than the shipping costs that probably preclude those transactions from taking place?

Mr. **Creelman**. I believe that to be the case—not to condemn Alaskan coal to be forever uncompetitive. I am sure that is not the case. I certainly hope it is not the case.

But I also understand that in the Hawaii situation, which this bill addresses, it is expected that the coal will be provided under a long-term contract from, I believe, an Indonesian source.

Senator **Breaux**. Let me ask about the passenger ship legislation, which the administration also opposes.

In your statement, you talk about what would happen if the legislation were to be adopted, and one of the statements that you make at that time is: "However, we are unable to see what significant economic benefits to Alaska would occur if this legislation is acted."

There are GAO studies that talk about the increased cost in Alaska using U.S.-built Jones Act vessels and their overall trade. I have seen estimates from as high as $600 million down to, I think, $146 million, of extra costs that are incurred by Alaska.

I think that the Senators from Alaska would suggest—and they can ask this in their questioning—that if legislation were passed, the vessels would be able to spend more time in the Alaskan ports and that the market seems to be for people who would depart from the United States and then not return to, say, Seattle, but catch a plane and fly back to the lower 48.

They would suggest that that is a tremendous economic additive to the Alaskan economy. Apparently you dispute that.

My question is on what basis?

Mr. CREELMAN. Senator, the basis really revolves around the nature of the cruise trades. They tend to be round-trip trades. People tend to visit ports briefly, return to their ship as a hotel at night, and it is a round-trip trade in general.

Senator BREAUX. If that were true, wouldn't that be occurring now with the vessels departing Vancouver and returning to Vancouver, instead of apparently departing Vancouver and having all of the passengers basically fly back to the lower 48?

I know that is true out of Florida. Everybody leaves Miami and goes to the islands and then returns back to Miami. But apparently the point is being made, in this case by the Alaskan Senators, that that market up there is entirely different and that the market is a nonreturn or one-way trip type of market.

Mr. CREELMAN. Our analysis would suggest that those who go to Alaska to spend substantial time in Alaska would fly, rather than take a cruise ship, whose rate base tends to be a round-trip type operation.

Senator BREAUX. I won't dispute that. I know the Senators from Alaska and Washington probably will, however.

Would the administration's position be any different were there to be what we phrase a "bumping" provision, that is, that the foreign vessels would be allowed to operate and if a U.S. vessel were to be constructed and built, that vessel would automatically replace a foreign-flag vessel? Or would the administration's position still be the same?

Mr. CREELMAN. The administration position would still remain the same. In the last analysis, however, were such legislation to be enacted against the administration's objections, the administration would work for the narrowest possible construction in the legislation, and, therefore, a "bumping" provision would be welcome.

Senator BREAUX. My last question is do you see any foreseeable situations where any U.S. passenger ships are likely to be built, which would be directed at that trade, and particularly looking at our title XI program, which is still on the books. There are some applications, as I understand it, pending for passenger ships. But nothing ever seems to happen.

Mr. CREELMAN. Senator, we do have two applications under our title XI program at this time, each of which calls for two passenger vessels, all of which are intended for the Hawaiian trade and with specific mention of Alaskan trade as well, with respect at least to one of those applications.

Senator BREAUX. Is that for use within Hawaii, just for the islands?

Mr. CREELMAN. No. I think it intends west coast to Hawaii.

Senator BREAUX. Can you tell the committee without getting into any obvious problems as to what timeframe you are looking at for any kind of decisions on those applications?

Mr. CREELMAN. Neither of those applications is complete, as yet. There has been a good deal of correspondence back and forth, meetings back and forth, between the principals and the Maritime Administration toward completion of the applications, but they are both still current.

Senator **Breaux**. Can you say whether the Maritime Administration feels those types of applications are feasible within general parameters? I am not asking you to comment on the specific applications that are pending, but is that a feasible venture, if financing is available?

Mr. **Creelman**. Certainly the principals feel that they are viable proposals and they are working toward completion of their applications with the expectation that they will be viable, and that they can meet our requirements.

That remains to be determined on completion of the information that is submitted, and we will evaluate those applications against the regulatory requirements for economic soundness and practicality.

Senator **Breaux**. Thank you very much.

The Senator from Alaska, Senator Murkowski.

Senator **Murkowski**. Thank you.

I believe the Senator from Washington has to run off to a hearing, but, without losing my right to question the witnesses, I will allow Senator Evans to proceed.

But before I do, Mr. Creelman, I just want to make one point.

I don't know where your compilation of information came from with regard to the makeup of the cruise passengers currently going to Alaska. Our information is that nearly 80 percent—80 percent—make a one-way voyage, and that the one line that sails out of Seattle is obviously limited to round-trip passengers because that is the requirement under the interpretation of the law.

Now, the rationale, the reason that most of the sailings are out of Vancouver is because they don't have to round-trip.

I intend to come back and question you a little further on where you get your information because it is entirely contradictory to the current information we have, and we have people who will testify from the cruise ship industry as well.

I would yield now to Senator Evans.

Senator **Evans**. I thank the Senator from Alaska and the Chairman. That is the line that I wanted to pursue.

Mr. Creelman, I am only going to speak to the cruise ship part of your testimony because I have no specific knowledge of the coal traffic problems, which Senator Murkowski I am sure will cover.

But in your testimony, I find several things strange enough to put in question the validity of your whole testimony.

You say that on the Seattle-Alaska cruise, it does not seem likely that passengers would opt for a one-way voyage. The Canada-Alaska cruise passengers could do that today, legally. You say there does not appear to be any market for such service.

Mr. Creelman, the Senator from Alaska is right. The overwhelming amount of that traffic is one-way service. That is what people do want.

Many people can take 1 week for a cruise; many fewer can take 2 weeks for a round-trip, or whatever the length of time is.

There is every indication that one-way voyages are a big and growing part of the market. I find it difficult to understand how you can make the statements you do in your testimony. I eventually will ask you where in the world the material comes from to justify that statement.

Secondly, you say, and this is speaking of the protection and of the American-flag vessels, "For example, should Exploration wish to run larger vessels under U.S.-flag, it would confront foreign competition. Similarly, a foreign vessel could presumably provide either an exclusively passenger or an exclusively vehicle or cargo service over routes served by the Marine Highway System."

I hope you will remain here to hear the testimony of some of those who will come after you. Bob Giersdorf is the one who runs those vessels. He is a long-term, very fine operator, and I don't want to take away from his testimony, but would read one part of it which is underlined. He says, "We need no such protection."

So, he is speaking out in favor of the act. The administration is opposed to it.

You are speaking out on the fact that there is no real need for this one-way service because there does not appear to be a market.

Where does that information come from? What background or what material can you provide for the Committee that justifies that statement?

Mr. CREELMAN. Senator, I don't want to duck your question.

I have with me Mr. Bob Christie, from our Division of Ocean Shipping. The research on the Alaska cruise trades has been done within his department.

Senator EVANS. That's fine. If he has some material, I would like to know what it is.

Mr. CREELMAN. Bob, can you help us here?

Mr. CHRISTIE. Yes.

Senator, present law requires that foreign flag voyages be either round-trip from a U.S. port with a stop in a nearby foreign country or begin or terminate at a foreign port. You have a goodly number of published itineraries that will begin, for example, in a British Columbia port and end in an Alaskan port, or vice versa.

The experience has been that Seattle has not found popularity as an origin or destination point, except for the one operator who is currently in that trade.

I believe there was a study performed for the Seattle Chamber of Commerce, which examined what Seattle would have to do to become more popular as a cruise destination. The findings were such that the pressure to attempt to co-opt some of the British Columbia trade for the Port of Seattle has been put on a back burner for the time being.

Senator EVANS. I would just say that that is the most incredible piece of testimony I think I have ever heard.

What you are saying is that because the market is from British Columbia to Alaska that there is no market from Seattle to Alaska, and the reason there is no market from Seattle to Alaska is that no one other than U.S.-flag vessels, of which there's only one, the Exploration Cruise Lines, can go from Seattle to Alaska on a one-way operation.

You know, that is a self-fulfilling prophesy. I can't understand—and I will credit this to my colleague from Alaska because he said it to me—how an administration that so prides itself on deregulation can come up with such a silly proposition as this to justify continued regulation.

I just find it incredible that you would say that there is no market because people are already going from Vancouver to Alaska.

Don't you believe that if there were a choice, that if all the vessels which are now operating on the Alaskan inland route could go from Seattle to Alaska on a one-way trip, or from Vancouver to Alaska on a one-way trip, your conclusion would be different?

Don't you think that a good number of those people who are now travelling would opt for a Seattle to Alaska trip?

Mr. **Christie**. Senator, as Mr. Creelman earlier testified, the general duration of the cruises on which information is published will run approximately 7 to 10 days. There are some absolute limitations on the length and complexity of an itinerary that can be fit into that period.

A round-trip voyage from Seattle rather limits the number of Canadian and Alaskan ports that could be called within that time.

Senator **Evans**. Of course. That's why everybody wants to go on a one-way trip, for which you say there is no market. But there obviously is a big market. That is what most people do.

But you are saying there won't be a market from Seattle on a one-way trip because they are already going from Vancouver. An overwhelming percentage of these passengers are American tourists. Most of them are coming from other parts of the United States. A high percentage of them come into the Seattle airport. And you are saying that they enjoy the idea of being bused from Seattle to Vancouver because that is the only way they can get aboard the ship and that there is no market if they could board the ship in Seattle on a one-way trip?

Is that what you are saying?

Mr. **Christie**. Senator, I am not stating that that is the case. I am stating that the assessment that was done for the Seattle Chamber of Commerce found that it would be an extremely difficult endeavor to attract trade from the existing British Columbia ports to the Port of Seattle. I believe it even considered an exemption from the Passenger Services Statute as being available.

Senator **Evans**. Perhaps. That may be difficult. But that gets down to the specifics of this.

What you are saying is because it is difficult, we are not going to allow it. We're not going to give them a chance to find out whether it is impossible, difficult, easy, successful or unsuccessful to go into the business. I would hope this administration would offer the opportunity, as they have done quite successfully in other parts of the transportation industry.

You are saying that the administration won't let them try? Is that essentially it, Mr. Creelman?

Mr. **Creelman**. Senator, I think what we are saying is that we resist continued amendments which chip away at both the Jones Act on the one hand and the Passenger Services Act on the other hand.

Senator **Evans**. Now let's not get into this. This is what is used too often in legislation or proposed legislation, that it is not specifically what you are trying to do, it is the precedent set or what might happen. Let's speak directly to this specific issue, which is the subject of this particular bill.

The administration opposes any changes that would allow the cruise ship industry to expand from Northwest ports to Alaska. Is that essentially what you are saying?

Mr. CREELMAN. Well, the cruise ship industry exists at the moment.

Senator EVANS. It sure does, and 90 percent of it is from Vancouver.

Mr. CREELMAN. Yes, it is sailing from Vancouver, with one exception. There is the Sitmar cruise, that runs from Seattle, with a stop in Vancouver, to Alaska.

If our information on the activities of passengers on these rather short cruise trips is incorrect, we certainly will study that and correct the record.

Our information, however, up to this point, indicates that these tend to be round-trip, short cruises.

I certainly respect your detailed local knowledge of that situation, which we will review.

Senator EVANS. Thank you. I will yield at this point.

Thank you.

Senator MURKOWSKI. It is my understanding, in case Mr. Creelman is not aware of it, that the only shipping company that operates out of Seattle is Sitmar, and they are dropping out of Seattle next year because they are not drawing enough traffic. The traffic is all going to Vancouver.

Is Mr. Creelman aware of that?

Mr. CREELMAN. I had heard that that was the case. Yes.

Senator MURKOWSKI. Well, if you had heard that that was the case and yet are still convinced and give testimony that passengers prefer to make round trips out of Vancouver, and cite as an example the single sailing out of Seattle as the more preferred, it seems to me there is a great discrepancy in your testimony. If you have knowledge as you have just stated that Sitmar is dropping this, but you are using Sitmar as an example to justify the administration position, isn't that rather an extraordinary thing?

Don't you find a bit of a conflict there?

Mr. CREELMAN. No, sir.

Senator MURKOWSKI. Well, I would suggest you think about it a little bit. If you are aware that Sitmar is dropping Seattle and are still using that as an example to justify the administration's contention that the passengers prefer round trips out of Vancouver when every current analysis indicates that some 80 percent of the passengers prefer one-way and that is why they are going out of Vancouver as opposed to Seattle, then—I just don't know.

Mr. Creelman, has your testimony been cleared with OMB?

Mr. CREELMAN. Yes, sir. It has.

Senator MURKOWSKI. Who cleared it in OMB?

Mr. CREELMAN. I can't tell you that.

Senator MURKOWSKI. Is it because you don't know?

Mr. CREELMAN. Yes, I don't know.

Senator MURKOWSKI. Who does know?

Mr. CREELMAN. I can get you that answer, sir.

Senator MURKOWSKI. OK.

We would appreciate having that.

[The following information was subsequently received for the record:]

All Maritime Administration testimony is cleared at OMB by the Legislative Reference Division. Our contact in that office is James Brown.

Senator **MURKOWSKI**. Do you see an inconsistency within the administration's position—and this was touched on by Senator Evans—with regard to general deregulation on airlines and everything else and the crass maritime protectionism of your posture as spokesman for the administration?

Mr. **CREELMAN**. I don't view the administration's position toward maritime regulation as "crass protectionism."

Senator **MURKOWSKI**. Is it free trade, then? Is it an open market?

Mr. **CREELMAN**. I think "free trade" needs to be defined.

We are mindful of our responsibilities under the Merchant Marine Act to provide vessels adequate to the national defense, adequate to meet our domestic commercial needs to a reasonable degree, and we think that the vehicle for accomplishing that is the Jones Act.

Those things which diminish the effectiveness of the Jones Act reduce our ability to provide the necessary sealift capability to meet military emergencies. I think, as has been referred to by the chairman, the findings of the Commission on Merchant Marine and Defense, which are not yet complete, suggest that we have major problems in that area which need to be addressed.

And so, we do not view this as crass protectionism, particularly since the percentage of cargoes moved in our own ships is something on the order of 4 percent.

Senator **MURKOWSKI**. Well, where I find the inconsistency, Mr. Creelman, is where the administration initially supported changes in the maritime law under the United States-Canadian Free Trade Agreement, which I am sure you are aware of.

Mr. **CREELMAN**. I am very much aware of that.

Senator **MURKOWSKI**. I happen to think the administration took a poor position on that. But it was clearly a position that was not protectionist, but of opening the trade up, which would have been detrimental to U.S. ships operating under the Jones Act, and would have allowed Canadian vessels into our market.

So I see a crass inconsistency in the administration's position in support of the United States-Canadian Free Trade Agreement, as proposed. A lot of us got together and worked hard to turn it around, and it was turned around.

Is that not correct?

Mr. **CREELMAN**. That's correct.

Senator **MURKOWSKI**. I am not going to belabor the point, but I think it is obvious.

Another question that I think bears some examination is this.

How long have the two title XI applications that you mentioned been pending?

Mr. **CREELMAN**. The two title XI applications?

Senator **MURKOWSKI**. Yes, the title XIs.

Mr. **CREELMAN**. It has been, I would say, about a year.

Senator **MURKOWSKI**. About a year.

Would you provide for the record an accurate time there? Our understanding is that it has been longer than a year.

Mr. **Creelman**. We can provide that for the record. We are not sure exactly when those applications came in and what the route of those applications has been while they have been in-house.

[The following information was subsequently received for the record:]

Major Points

There are currently two pending Title XI applications, one from U.S. Maritime Associates, Inc. (USMA) and the other from United States Flagships (USF). The date of the USMA application is January 29, 1987, and USF's application is dated June 25, 1986.

BACKGROUND

Both projects anticipate using their vessels in Jones Act trades.

Senator **Murkowski**. And there has been from those who purchased the S.S. *United States* a concern over any changes in the Jones Act. The S.S. *United States* is currently in what status?

Mr. **Creelman**. The S.S. *United States* is in layup status.

Senator **Murkowski**. Has it been sold by the Maritime Administration?

Mr. **Creelman**. Yes.

Senator **Murkowski**. Do you know of any plans for it to enter the trade in the near future?

Mr. **Creelman**. Not in the near future, to the best of my knowledge.

There have been a number of plans over time, none of which has panned out.

Senator **Murkowski**. You indicated in your testimony the fact that if this legislation passes, the likelihood of any U.S. passenger ships being built would be curtailed. Yet, reality dictates that we have not had any—because of a lot of reasons, economics primarily.

Yet, the administration still wants to keep this door open at any cost.

Mr. **Creelman**. The administration wants to keep this door open. We have had under title XI three small passenger ships built in the last several years.

Senator **Murkowski**. What were the tonnages of those ships?

Mr. **Creelman**. They are quite small.

Senator **Murkowski**. Under 1,000 tons?

Mr. **Creelman**. Yes. They are called pocket cruise ships.

Senator **Murkowski**. So they would not be affected by this legislation?

Mr. **Creelman**. No, they would not.

Senator **Murkowski**. You mentioned that you cannot see much benefit to Alaska from the bill. Are you aware of the possibility that two of the foreign ships currently are operating out of Prince Rupert, and that consideration is being given to run those out of Ketchikan, AK?

Mr. **Creelman**. I am not aware of that, sir.

Senator **Murkowski**. I see.

Well I hope you will be able to stay for the testimony of some of the other witnesses because that is proposed.

Are you aware that the Alaska ferry system runs virtually full in the summertime? Recognizing the seasonality of the Alaskan trade, how do you seriously suggest the ferry service would suffer, as you implied in your statement?

Mr. CREELMAN. Well, the ferry service, as I understand it, operates using U.S. vessels, U.S. crews, and therefore if the opportunity for running with lower cost foreign vessels and foreign crews were available——

Senator MURKOWSKI. Now that is strictly prohibited in the legislation, as you understand, of course.

Mr. CREELMAN. Yes.

Senator MURKOWSKI. Ferries are excluded, those carrying cars or cargo.

Mr. CREELMAN. Yes. But the opportunity for competition using exclusive passenger or exclusive freight services is not prohibited.

Senator MURKOWSKI. Freight service is prohibited.

Mr. CREELMAN. It is those that are carrying both, where there is an exemption, as I understand the bill.

Senator MURKOWSKI. The ferries are not addressed under this legislation. They are prohibited from having any foreign competition that provides for cargo and vehicles. That is in the legislation.

Let's talk a little bit about coal.

Recognizing that coal prices are competitive worldwide and you either compete in the market or you don't. You do compete in a world market, obviously, because what is your alternative given that you inferred a long-term contract with coal from Indonesia?

Do you suggest that we give up the case? The realization of being competitive is often in the shipping rates, in the differential. Where we may be able to bring a U.S. ship into the market, the fact is that an environment where a foreign vessel can carry coal from a foreign country to Hawaii absolutely eliminates the possibility of the American competing.

As a consequence, we lose the jobs in the ports, the jobs in the railroads, the jobs in the mines.

Is it the administration's position that we try and look at a realistic alternative, and is one a subsidy so that we can provide U.S. coal to Hawaii? Or do we just give up and recognize that the sale is going to Indonesia anyway?

Mr. CREELMAN. Well, I am certainly not suggesting giving up, nor am I in any position to suggest subsidies.

Senator MURKOWSKI. Well, you suggested the status quo, which is nothing more than what we have, which is nothing.

Mr. CREELMAN. The Hawaiian market for coal, as I understand it, is a promising one, but one which does not presently exist to any substantial degree, and the rest of the world is out there for the sale of coal from Alaska or wherever.

So, the opportunities for the Alaskan coal industry to compete worldwide are very much there, except in the case of Hawaiian, with cheap foreign-flag vessels.

Senator MURKOWSKI. I think in your testimony you indicated that coal was not competitive. I think we will have witnesses from the U.S. Coal Association that will show that U.S. coal is competitive at the mine.

From 1980 to 1987, the average price at the mine of U.S. coal has dropped 27 percent. So, if that is a given, then the question of transportation must be looked at, and I think the U.S. Maritime Administration has an obligation to come up with some positive alternatives to assist in the marketing of coal, if, indeed, the criterion is transportation.

Don't you?

Mr. CREELMAN. We would certainly like to participate in that. Yes.

Senator MURKOWSKI. Well, we would like to have some of your questions.

Thank you, Mr. Chairman.

Senator BREAUX. Thank you.

Mr. Creelman, I was going to defend the administration, but sometimes its tough.

I guess what I am hearing here is that Seattle is not a particularly popular port. That's probably because there are not any ships leaving from it.

Senator ADAMS. Let's add the word "maritime" there, Mr. Chairman.

Senator BREAUX. Well, for passenger vessels, anyway.

I think what Senator Murkowski has raised, really points out the situation that we are in and how ludicrous it really is. We are, in fact, losing hundreds of thousands of passengers that should be departing from Seattle, instead of having to be bused across the way, to depart from Vancouver. That is very unfortunate.

To continue to support the policy of the Jones Act and not do anything to encourage U.S. shipbuilding, however, is also ludicrous. This administration over the last eight years has successfully done away with the CDS program for construction differential subsidies, and I think just about held in abeyance the title XI program.

So I think it is very difficult to rationalize your strong support for the Jones Act but not doing anything to encourage the building of U.S. ships. The two go together. You can't have one without the other, as we say.

It does not make any sense to just hang on to the Jones Act, saying we are going to defend it to death, when we have millions of passengers departing Miami, for instance, on a regular basis in foreign bottom ships, and we have situations in Alaska where we have to bus them across the line.

The Jones Act is an incredibly important doctrine, because we need the ships to maintain the national security of this country. But there is no question about it. Unless this administration does something about the lack of having any ships built, the policy will never work.

Are you going to have any disagreement with that statement?

Mr. CREELMAN. No, sir.

I would point, however, to the administration's operating differential subsidy reform bill, which would permit, in the case of vessels in foreign trade, their construction anywhere in the world.

Senator BREAUX. I don't know what that does to help a U.S. yard.

Mr. CREELMAN. It doesn't do a thing to help a U.S. yard. And, as we pointed out, we think those two problems need to be addressed separately. However, we have not been able to move the CDS proposal, which would provide a more competitive capability for U.S.-flag vessels in foreign trade.

Senator **Breaux**. That doesn't do anything domestically. That does not help the Jones Act trade at all. It is a foreign built vessel, whether it has an CDS program available or not, and it certainly doesn't allow a foreign-built or flagged vessel to operate from a U.S. port to a U.S. port.

Mr. **Creelman**. That's correct. Therefore, joining that with the maintenance of the Jones Act to protect the Jones Act trade for U.S.-built ships is important.

Senator **Breaux**. Unless the next administration comes up with an aggressive program, whichever candidate happens to win, to start building some U.S. ships, the Jones Act is going to be harder and harder to defend, and I am a big defender of it. But it is a two-pronged approach. It cannot just be one.

What this administration has done is to wrap itself in the Jones Act flag and ignore the fact that no U.S. ships are being built because of the taking away of the construction differential subsidy program and not replacing it with anything else, and putting to sleep the title XI program.

The Senator from Washington, Senator Adams.

Senator **Adams**. Thank you, Mr. Chairman.

Mr. Creelman, it is a pleasure to see you again.

Those of us in Seattle and actually in the entire Pacific Northwest have been very concerned about this problem for some time. We appreciate Senator Murkowski bringing up the issue again.

As so well stated by the chairman, our problem is with the Jones Act and with the cutbacks that have occurred in the ability of U.S. ships to be available to carry out services.

I would like to say, first, that Seattle wants cruise ship business. We have the hotel infrastructure, we have the harbor, and we believe that the Arthur Young study clearly shows that the so-called one-way trip from Seattle to points in Alaska with fly-backs would be a very popular trip.

I have been a supporter, as has Senator Breaux, of the Jones Act because every nation in the world protects its internal trade—maritime, air, or otherwise—from being carried by foreign sources, which is what "cabotage" means.

What is your proposal for how we meet the objections that have been stated by Senator Murkowski and that are the subject of this hearing and maintain our ability to contain and have our own cabotage rules in force, which is a worldwide scheme? It is not an unusual system.

We just happen to have a bigger problem in those places because we are a larger nation. We are a maritime nation. We are a nation, in this case, that has States that are divided from the continental United States, and we want to aid those States.

So I am not automatically closing the door on what Senator Murkowski has proposed. But I have not heard a proposal come out yet. The chairman's question was if you cut off all of this assistance to making the United States competitive, what is your program or proposal for how we meet the problem that has been stated by Senator Murkowski?

Mr. **Creelman**. Senator, we don't have a specific proposal to make at this time.

Senator **Adams**. Well, what about the various ships that you have had and been required to foreclose on during the past few years? In prior existences both in public life, in the Cabinet, and in private life, as a private attorney, I am aware of the foreclosures that have been required by MarAd and in some cases the absolute removal of, for example, natural gas ships and conversion of them.

What in your fleet there is available as potentials for cruise ship operators to either convert or to use, so as to meet the proposals of the Jones Act?

I am not saying this as a proposal to you. But if you don't have any proposal to make to this Senator, we have to live with these problems all the time. We are going to throw some concepts out to you.

Mr. **Creelman**. Senator, not with respect to cruise vessels but with respect to vessels capable of carrying coal in the Alaska to Hawaii trade or, for that matter, any other trade, I did mention earlier the barge *Oceanport*, which is one that we have recently gained title to, as a result of a foreclosure sale last week.

Senator **Adams**. I am familiar with that ship. You are using this as an example of a concept or a program that we might proceed with—correct?

Mr. **Creelman**. Well, I had not viewed it in that light.

I mentioned it only as an illustration of the availability of a vessel currently idle that has a significant capability to move bulk products, bulk cargoes, and whose capital costs on resale will be relatively competitive because of the distress that the vessel has seen in the past, making it a fairly competitive vessel. In this case, it is a barge, which would be operated by an American towboat, again, with a relatively small crew and, we think, very cost competitive in the world market.

That is not a program, I regret to say. I have no comprehensive program to offer this morning. I wish I did.

But I would simply point out that there are vessels available and, as you suggest, some of them perhaps as a result of foreclosure sales and defaults that have occurred in other government programs, namely the title XI program.

Senator **Adams**. I do have one further question.

I know we have had and we have done this, many of us who have been involved in the maritime trade for many years, a whole series of really ad hoc exemptions that have gone on with regard to individual vessels for individual reasons.

Do you think that such an ad hoc policy—and I am a believer that there is a policy in effect at all times. Even though you say you don't have a policy, whatever is happening out there, a nonpolicy or policy, something is going on. And we have had exemptions.

Do you have any comment on whether this is what you would intend to continue to do or not?

Mr. **Creelman**. Whether we would attempt to continue to consider exemptions on a case-by-case basis? Is that what you are asking, sir?

Senator **Adams**. Yes.

Mr. **Creelman**. The last time I spoke before this subcommittee, it was to support the launch barge exemption so as to permit construction, continued construction, of platform jackets in U.S. shipyards, which we thought was a narrow exception to the Jones Act, which had a very identifiable, direct benefit to the industry, whose problems we attempt to address.

Senator **Adams**. I will just close with this, Mr. Administrator.

We would like to see these cruise ships in Seattle. There is an obvious place for them, with connections by air and by land and the Alaska trade is terribly important to us.

I would appreciate a submission in writing from you of any proposals or comments you may have because, if you don't, just as with Senator Murkowski, Senator Adams will have, lots of times, things that we may propose where we have not had the benefit of your thinking, and which may not be so much too your liking.

I do not mention that as a threat at all. I just mention it in order to say that we have to deal with this problem and we want to in a fair fashion.

Mr. Chairman, I appreciate Mr. Creelman being here with his associates this morning, and I have no further questions.

Senator **Breaux**. Thank you, Senator.

This panel will be excused with the understanding that we may have additional questions that we would like to submit to have the administration respond to.

Thank you for being here.

[The following information was subsequently received for the record:]

U.S. Department of Transportation,
Maritime Administration,
October 25, 1988.

Hon. John B. Breaux,
Chairman, Subcommittee on Merchant Marine, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: I am enclosing answers to the three questions forwarded for written response for the record and the list of legislative exceptions to the Jones Act requested in the hearing on S. 2728 and S. 2729 before your committee on September 28, 1988.

I would like to take this opportunity to clarify one point. Our statement and responses to questions at the hearing were based on the two bills as then available. But in his introductory remarks, Senator Murkowski made clear that he has already changed both bills to include origins from any U.S. port, not just from Seattle, in the case of S. 2729, and not just from Alaska, in the case of S. 2728.

These changes drastically broaden the effect of both bills and strengthen our opposition to them. They illustrate the truth of our remarks that apparently small changes, which nibble away at the edges of the Jones Act and Passenger Vessel Services Act, tend to beget larger changes. Such changes take a bit out of the heart of those laws which are vital to the very survival of our U.S.-flag merchant marine.

Sincerely,

William A. Creelman,
Deputy Maritime Administrator.

Enclosure.

Questions of Senator Inouye and the Answers Thereto

Questions. S. 2728 would allow low cost foreign-flag vessels to transport coal in our Jones Act trades. U.S. law and maritime policy, on the other hand, prohibit subsidized U.S. flags from doing precisely that, because they would have an unfair competitive advantage.

In your view, would enactment of S. 2728 be at odds with our laws and policy excluding subsidized operators from our Jones Act trades?

Answers. U.S.-flag operators in the foreign trades are eligible for financial assistance solely in order to permit them to compete directly with lower-cost foreign-flag operators. Operators receiving such subsidies are prohibited from competing with operators in the U.S. domestic trades because no such foreign-flag competition exists under the Jones Act.

We have viable unsubsidized domestic trade operators today, with vessels built in U.S. shipyards and operated by U.S. citizen crews, because lower cost foreign-flag and subsidized U.S.-flag vessels have been excluded by long standing U.S. law and policy. The relatively high cost of building vessels in the U.S. and their operation without subsidy would place current domestic operators at an unfair competitive disadvantage in head-to-head competition with either foreign-flag or subsidized U.S.-flag operators.

Thus, the enactment of S. 2728 would most certainly be at odds with our laws and policies excluding subsidized operators from our Jones Act trades. Unless the United States is prepared to increase subsidies on a massive scale, abandonment of Jones Act protections will result in the elimination of a major portion of our sealift capability with significant national security implications.

Question. Please comment on whether the availability of Federal Title XI loan guarantee commitments could foster a revitalization of our U.S.-flag cruise ship industry?

Answer. A revitalization of the U.S.-flag cruise ship industry is primarily dependent on the economics of constructing and operating vessels in competition with other recreation industries. Capital costs are but one part of the equation. Title XI loan guarantees could be of assistance to a revitalization, but only if the basic economics and market opportunity are sound.

Question. According to one witness (Puget Sound Cruiseship Alliance), an economic impact study by the Arthur Young Company concluded that if the restrictions against one-way Seattle-Alaska cruises were lifted, Seattle initially stood to gain as much as $11 million per year from the growth in the Alaska cruise trade.

Are you familiar with that study?

Isn't that conclusion at odds with your testimony that: "There does not appear to be any market for one-way Seattle-Alaska cruises?"

Answer. Prior to our testimony, I was not personally familiar with the *Alaska Cruise Ship Industry Economic Impact Study,* performed by Arthur Young and Company on behalf of the Greater Seattle Chamber of Commerce and the City of Seattle. Based on that study and an analysis of advertised vessel sailings in the Alaska cruise trade, the contention in the testimony that there does not appear to be any market for one-way Seattle-Alaska cruises was clearly in error.

While that study does state that "the direct economic impact of this business in Seattle in 1991 could be approximately $24 million (compared to approximately $13 million at the present time)," that projection is based on some highly optimistic assumptions.

In addition to changing the Passenger Service Act to attract one-way cruises "(currently about half the business)," the projection is based on the assumption that all of the growth in Vancouver's cruise activities over a five year period could be attracted to Seattle. The report went on to state that "(t)he Port of Vancouver and the Province of British Columbia can be expected to respond aggressively to any threat that would shift the present Alaska cruise ships homeport from Vancouver, B.C. to Seattle and Puget Sound."

Other factors highlighted in the report are:

"Cruise industry executives stated that based on research, their customers and retail travel agents at the present time prefer Vancouver over Seattle. Cruise passengers also perceive that they are getting greater value by sailing to or from Vancouver because they consider it an exciting foreign port.

"The largest percentage of Alaska cruise itineraries are based on a weekend departure, seven-day pattern. Seattle homeported vessels would add 300 miles of slow and more difficult navigation to each segment of the present seven-day cruise pattern. This amounts to a minimum of 18 hours of steaming time or an equivalent of one additional day. To offset this, a new marketing thrust would need to be developed that minimized the impact of less time in Alaska.

"Without significant economic reasons for moving from one homeport to another, most cruise lines will stay where they are simply to avoid the cost and effort involved in making a move and the risk of changing from a proven market."

Certainly, any incremental business that Seattle might capture would be welcomed there. The tenor of the report, however, is not one of unrestricted optimism;

we believe that it could not prudently be otherwise in addressing a wholesale market diversion that relies on a confluence of factors beyond simple amendment of existing law, and that is certain to be hotly contested.

OCTOBER 17, 1988.

On September 28, 1988, at a hearing before the Senate Merchant Marine Subcommittee on S. 2728 and S. 2729, the Maritime Administrator was asked to provide, for the record, a "list of each of the exceptions to the Jones Act since its enactment, and just a one line statement of the purpose for which that exception was granted."

The "Jones Act" in its context is understood to refer to section 27 of the Merchant Marine Act of 1920. The principle of reserving a nation's coastwise trade exclusively to that nation's own vessels is quite common among maritime nations and has been a part of this country's laws since the first Congress. (*See,* Act of July 4, 1789, 1 Stat. 24, 27). The Jones Act is one of the modern day expressions of that long standing policy. This Administration is committed to upholding the integrity of the Jones Act.

MarAd has no authority to grant exceptions to the Jones Act, which is administered by the United States Customs Service. In fact, the only statutory authority for Customs to grant exceptions to the Jones Act requires a request from the Secretary of Defense (see item No. 5 on the following list of exceptions). It is MarAd's understanding that such exceptions are granted by Customs very infrequently, and generally involve only a single movement.

Attached is a list of Statutory exceptions to the Jones Act since its enactment in 1920 and other exceptions to our coastwise laws. In addition to these, there have been many "private bills" enacted admitting non-qualified vessels, primarily fishing vessels and small passenger vessels, to the coastwise trade.

STATUTORY EXCEPTIONS TO THE JONES ACT SINCE ITS ENACTMENT IN 1920 AND OTHER EXCEPTIONS TO THE COASTWISE LAWS

1. Act June 14, 1934, provided "The provisions of law of the United States restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from any port of the United States to another port of the United States shall not be applicable to commerce between—between—the islands of American Samoa or between those islands and other ports under the jurisdiction of the United States.

Purpose: Exempts American Samoa from Jones Act.

2. Act April 11, 1935, inserted "*Provided further,* That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad-car ferry operated between fixed termini on the Great Lakes as part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States".

Purpose: "Grandfathered" operation of railroad-car ferries on the Great Lakes.

3. Act Apr. 16, 1936, provided "That the coastwise laws of the United States shall not extend to the Virgin Islands of the United States until the President of the United States shall, by proclamation, declare that such coastwise laws shall extend to the Virgin Islands and fix a date for the going into effect of same."

Purpose: Exempts U.S. Virgin Islands from Jones Act.

4. Act Apr. 26, 1938, provided "Until such time as passenger service shall be established by vessels of the United States between the port of Rochester, New York, and the port of Alexandria Bay, New York, the Secretary of Commerce—Commissioner of Customs—is authorized in his discretion to issue annually permits to Canadian passenger vessels to transport passengers between these ports; such Canadian vessels holding such permits not to be subject to the provisions of section 8 of the Act of June 19, 1886, as amended by section 2 of the Act of February 17, 1898—46 USCS Appx Section 289."

Purpose: Authority for non-qualified vessels to carry passengers between ports in New York in the absence of available qualified vessels.

5. Act Dec. 27, 1950, provided "Sec. 1, the head of each department or agency responsible for the administration of the navigation and vessel-inspection laws is directed to waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense. The head of such department or agency is authorized to waive compliance with such laws to such extent and in such manner and upon such terms as he may prescribe, either upon his own initiative or upon the written recommendation of the head of any other Government agency, whenever he deems that such action is necessary in the interest of national defense. Sec. 2. The authority granted by this Act shall terminate at such time as the Congress by concurrent resolution or the President may designate. Sec. 3. The joint resolution entitled "Joint resolution authorizing the Commandant of the United States Coast Guard to waive compliance with the navigation and vessel-inspection laws administered by the Coast Guard", approved March 31, 1947 (61 Stat. 33), as amended, is repealed."

Purpose: Authorizes Customs to waive Jones Act on specific request of Secretary of Defense.

6. Act Oct. 10, 1951, provided for the transportation of grain between United States Ports on Great Lakes by vessels of Canadian Registry and terminated on Dec. 31, 1951.

Purpose: Temporary authority for Canadian vessels to carry grain on Great Lakes.

7. Act June 24, 1952, provided for the transportation of iron ore in vessels of Canadian registry and terminated on Dec. 31, 1952.

Purpose: Temporary authority for Canadian vessels to carry iron ore on Great Lakes.

8. Act July 14, 1956, inserted "Provided further, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt outside the United States, its Territories—not including trust territories—or its possessions shall have the right thereafter to engage in the coastwise trade."

Purpose: Prevent vessels rebuilt abroad from operating in coastwise trade. Allow Jones Act qualified vessels to have some modifications made abroad while maintaining domestic trading rights.

9. Act Aug. 7, 1956, permitted Canadian vessels to transport coal to Ogdensburg, N.Y., from other points in the United States, on the Great Lakes, or their connecting or tributary waters for a period ending June 30, 1957.

Purpose: Temporary authority for Canadian vessels to carry coal to Ogdensburg, N.Y. from U.S. Great Lakes ports.

10. Act June 30, 1958, provided "Until June 29, 1959, notwithstanding the provisions of law of the United States restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from any port in the United States to another port of the United States, passengers may be transported on Canadian vessels between ports in southeastern Alaska, and passengers and merchandise may be transported on Canadian vessels between Hyder, Alaska, and other points in southeastern Alaska or the continental United States either directly or via a foreign port, or for any port, or for any part of the transportation, unless the Secretary of Commerce determines that United States flag service is available to provide such transportation."—Similar provisions have been in effect since 1947.

Purpose: Temporary authority for Canadian vessels to carry passengers and merchandise between ports in southeastern Alaska and between such ports and other continental U.S. ports in the absence of qualified vessels.

11. Act July 5, 1960, amended No. 8 above to read "Provided further, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt, shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its Territories—not including trust territories—or its possessions.

Purpose: Further clarifies No. 8 above.

12 Act Oct. 4, 1962, provided for suspension of the Jones Act during the one-year period beginning Oct. 24, 1962 for transportation of lumber to the Commonwealth of Puerto Rico from ports or terminal areas in the United States, providing the Secretary of Commerce determined that no domestic vessel was reasonably available.

Purpose: Temporary authority for non-qualified vessels to carry lumber to Puerto Rico from other U.S. ports in absence of available qualified vessels.

13. Act Sept. 21, 1965, inserted *"Provided further,* That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation of empty cargo vans, empty lift vans, and empty shipping tanks by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, so long as such vans or tanks are owned or leased by the owner or operator of the transporting vessels and are being transported for use in the carriage of in foreign trade.".

Purpose: Permits coastwise movement to empty, carrier-owned cargo containers on non-qualified vessels if for use in foreign trade.

14. Act Aug. 11, 1968, amended the above to read *"Provided further,* That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel, and (d) any empty instrument for international traffic exempted for application of the customs laws by the Secretary of the Treasury pursuant to the provision of section 322(a), Tariff Act of 1930 (19 U.S.C. 1322(a)), if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade."

Purpose: Further clarifies No. 13 above.

15. Act Nov. 23, 1971, inserted "and equipment, excluding propulsion equipment, for use with such barges"; and added *"Provided further,* That upon such terms and conditions as the Secretary of the Treasury by regulation may precribe, and, if the transporting vessel is of foreign registry, upon his finding, pursuant to information furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, the Secretary of the Treasury may suspend the application of this section to the transportation of merchandise between points in the United States—(excluding transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws)—which, while moving in the foreign trade of the United States, is transferred from a non-self-propelled barge certified by the owner or operator to be specificially designed for carriage aboard a vessel and regularly carried aboard a vessel in foreign trade to another such barge owned or leased by the same owner or operator, without regard to whether any such barge is under foreign registry or qualified to engage in the coastwise trade".

Purpose: Permits transfer of cargo between "LASH" type barges for carriage by non-qualified vessels in foreign trade.

16. Act Nov. 6, 1978, provided "(a) Effective during the five-year period beginning on the date of enactment of this Act [enacted Nov. 6, 1978], nothing in section 27 of the Merchant Marine Act, 1920, or any other provision of law restricting the coastwise trade to vessels of the United States shall prohibit the transportation within the State of Alaska of merchandise or passengers by foreign built hovercraft. (b) For the purpose of this section the term 'hovercraft' means a vehicle which travels over land or water in a cushion of air generated by such vehicles.".

Purpose: Temporary authority for the operation of non-qualifed hovercraft within the state of Alaska.

17. Act Nov. 16, 1979, inserted *"Provided further,* That until April 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by persons who are citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping-tanks between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination; but this proviso (1) shall apply only

to vessels which that same operator owned, chartered or contracted for the construction of prior to the date of the enactment of this proviso (2) shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions.".

Purpose: Permits U.S. operators to "position" cargoes between coastwise ports for transhipment in foreign trade.

18. Act Dec. 29, 1982, inserted "For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 9603(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States: *Provided, however,* That the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction of May 1, 1982, for a corporation wholly owned by a citizen of the United States; the term 'citizen of the United States', as used in this proviso, means a corporation as defined in sections 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(a) and (b)). The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flat state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making much inspections the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States.", and inserted "*Provided further,* That for the purposes of this section, supplies aboard United States documented fish processing vessels, which are necessary and used for the processing or assembling of fishery products aboard such vessels shall be considered ship's equipment and not merchandise.".

Purpose: (1) Extends Jones Act to at-sea incineration of hazardous waste, and (2) Permits coastwise transportation of shippboard supplies on U.S-documented fish processing vessels.

19. Act Oct. 30, 1984, provided "(a) Authorization of transportation. Notwithstanding any other provision of law, passengers may be transportated on passenger vessels not qualified to engage in the coastwise trade between ports in Puerto Rico and other ports in the United States, directly or by way of a foreign port, except as otherwise provided in this Act—this section. (b) Notification by Secretary; termination of service. (provides for termination upon a showing that qualified U.S. vessel service is available).

Purpose: Authority for non-qualified vessels to carry passengers between Puerto Rico and other U.S. ports in the absence of qualified vessels.

20. Act June 7, 1988, inserted ". . . *Provided further,* That the transportation of any platform jacket in or a launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), shall not be deemed transportation subject to this section if the launch barge has a launch capacity of 12,000 long tons or more, was build as of the date of enactment of this proviso, and is documented under the laws of the United States, and the platform jacket cannot be transported on and launched from a launch barge of lesser launch capacity that is identified by the Secretary of Transportation and is available for such transportation.".

Purpose: Permits certain non-qualified launch barges to carry platform jackets between two U.S. points in the absence of capable qualified launch barges.

Senator **Breaux**. I would like now to welcome up a panel consisting of Mr. John Reurs, who is chairman of the International Committee of Passenger Lines; Mr. Robert Giersdorf, who is president of the Exploration Cruise Lines; the Hon. Ted Ferry, mayor of the City of Ketchikan; Dr. John Sims, who is vice president for marketing for Usibelli Coal Mines, Inc.; and Mr. Eric Ostrovsky, associate director for Commerce and Transportation in the Governor's Office in Alaska.

If you will all take your seats, we would be pleased to receive your testimony.

We would ask each of the witnesses to please summarize their testimony so that we can move to the questioning period.

Mr. Reurs, we have you listed first. We are pleased to receive your statement.

STATEMENT OF JOHN H. REURS, CHAIRMAN, NEW YORK COMMITTEE OF THE INTERNATIONAL COMMITTEE OF PASSENGER LINES

Mr. **Reurs**. Thank you, Mr. Chairman and Members of the Committee.

Senator **Breaux**. Would you check the mike to see if it is on and working.

Mr. **Reurs**. I think it is.

Am I close enough?

Senator **Breaux**. Yes. There you go.

Mr. **Reurs**. My name is John H. Reurs. I am chairman of the New York Committee of the International Committee of Passenger Lines, or ICPL, which is made up of the 19 foreign-flag passenger cruise lines shown in the attached list. These ocean carriers operate in the foreign commerce of the United States and worldwide, with some 80 deep-sea passenger cruise vessels, representing more than 85 percent of the international cruise trade.

I am honored to appear today for the North West Cruise Ship Association, or NWCSA, at the request of Capt. A. Van Noort, president, who sincerely regrets that he is unable to be present today due to previous commitments. I also am here, of course, for ICPL to submit statements in support of Bill S. 2729, on behalf of both organizations.

The statement for NWCSA is submitted here for the record.

The statement for ICPL follows, if I may.

ICPL supports the statement submitted by NWCSA, whose member lines are all members of ICPL except for World Explorer Cruises. Bill S. 2729 would encourage fair competition for cruise trade between United States and Canadian ports in the Northwest area and Alaska. This will directly and substantially benefit the economy and employment at the U.S. ports involved, notably the local business enterprises that serve the maritime community and the tourist trade.

Most countries, particularly those in nearby areas, such as the Caribbean, but also other parts of the world, encourage cruise vessel calls at their ports in direct competition with each other and with U.S. ports. Such traffic is considered "manna from heaven," particularly by small ports with only limited marine and tourist facilities, because the vessels are self-contained units that do not burden or damage the local environment, do not require outlays for often costly public projects, and are subject to strict international safety and environmental standards and controls.

Existing law forbids the cruise trade between U.S. ports as described in S. 2729, thereby causing diversion of vessels to foreign ports.

The beneficial economic impact of cruise traffic at the ports visited is substantial and well-documented in studies by tourism officials in the countries and ports involved.

For example, a study made recently by tourist officials in British Columbia shows that some $70 million was earned locally by Canadian enterprises serving the cruise trade during the brief cruise season of the Northwest area, which is May to September. This impacted the local economy by more than $200 million, as these moneys circulated through first, second, and third hands, the so-called "ripple effect."

It is estimated that a typical call at a U.S. port of approximately 12 hours duration by a mid-sized cruise ship injects more than $150,000 into the local economy for payments to local U.S. businesses providing services to the vessel, its passengers and crew.

Should the vessel "turnaround" take place at a U.S. port, that is, begin and end its cruise voyage there, substantially larger amounts would be spent for vessel handling—for instance, for pilotage, tugs, labor to load and unload baggage and stores, purchase of bunkers, ships stores and supplies—and for passenger and crew arrangements—such as overnight hotel, air transportation, transfer from airport to piers, meals, excursions, shopping and other incidentals—as well as overland excursions.

In short, it is clear that should S. 2729 be enacted, and were it to result in even a small percentage increase in calls or turnarounds by cruise vessels at U.S. ports instead of foreign ports, this would produce significant incremental income to the local enterprises involved, including new employment opportunities.

In conclusion, ICPL supports the proposed bill, S. 2729, for the following reasons:

It makes good business sense in every way.

It will generate incremental tourist spending at U.S. ports.

It will generate jobs related to the port and tourism industries to the benefit of the local economy.

It will enable thousands of new cruise visitors, U.S. and foreign, to familiarize themselves with local attractions, which will stimulate return visits to the area by individual travelers for longer stays to the long-term benefit of the tourism infrastructure.

It will further encourage the use of U.S. shipyards on the west coast for routine and other repairs to foreign-flag vessels, thus providing employment and income amounting to many millions of dollars annually.

It will provide tax revenue, local, State and Federal.

I thank you for this opportunity to express our views. I will be pleased to answer any questions raised by this statement.

[The statement referred to follows:]

STATEMENT OF NORTH WEST CRUISE SHIP ASSOCIATION

Mr. Chairman and Members of the Committee: The North West Cruise Ship Association is a regional cruise ship operators association comprising eight members: Admiral Cruises, Costa Cruises, Cunard Line Limited, Holland America Line, Princess Cruises, Royal Viking Line, Sitmar Cruises and World Explorer Cruises. These companies operate foreign-flag, ocean-going cruise vessels on international itineraries, primarily from Vancouver to Alaska from May to September.

In response to the invitation extended by your Committee, NWCSA is pleased to testify in support of bill S. 2729 as introduced by Senator Murkowski on August 10, 1988 in consideration of the following.

NWCSA fully respects the practice of nations to reserve certain areas of trade and industry for its citizens. However, NWCSA is of the opinion that in the case of cruise traffic between points in Alaska and between points in Alaska and Seattle or other U.S. ports and vice-versa in vessels of more than 100 deadweight tons (other than ferries), such protection is academic because no U.S.-flag cruise ships are engaged in the trade as described in S. 2729.

It should furthermore be realized in the interest of the U.S. west coast ports and the cruise ship industry, the transportation of passengers to Alaska and return is now largely being handled from Vancouver, British Columbia, where this traffic contributes an estimated $70 million annually to the economy of British Columbia. NWCSA therefore supports Mr. Murkowski's statement in the Congressional Record of August 10, 1988, which explains in detail how tourist spending will benefit not only the State of Washington, but will stimulate trade and industry, thereby creating new jobs in the port cities involved if fair competition for this cruise trade between U.S. and Canadian ports of the Northwest, including Alaska, would be made possible. This in turn would be a stimulant to the overall market growth with consequent considerable benefits for both U.S. and Canadian tourism.

Thank you for this opportunity to express our views.

Senator **Breaux**. Thank you, Mr. Reurs.

Mr. Giersdorf.

STATEMENT OF ROBERT GIERSDORF, PRESIDENT, EXPLORATION CRUISE LINES

Mr. **Giersdorf**. My name is Robert Giersdorf. I am president and founder of Exploration Cruise Lines.

My home and business headquarters are presently in Seattle, though I spent much of my working career in Alaska. My various firms conduct extensive cruise and tour operations throughout the State of Alaska.

I have been associated with the Alaska transportation and cruise industry for 32 years—16 years in the aviation business; and the last 16 years in the tour and cruise industry, as president of Exploration Cruise Lines.

Our company has developed an important niche cruise format. The company operates six U.S.-flag Explorer class small cruise ships, carrying up to 100 passengers, each operating during summer months in the coastal waters of Canada and Alaska and in the Pacific Northwest cruising areas, also on the rivers of the Willamette, Columbia and Snake.

In the other seasons of the year, those ships operate on the California Delta and cruise Baja, in Mexico, the Sea of Cortez, plus Panama and Tahiti.

I would like to note that the governments of the Republic of Panama and the Government of French Polynesia and Tahiti 7 years ago unilaterally approved exemptions for our ships from their cabotage laws to allow these vessels to operate solely within their sovereign waters because of the significant contributions made economically to those areas.

In addition to our U.S.-flag vessels, the company operates two foreign-flag cruise vessels: the 156 passenger vessel, the *North Star* and the 250 passenger vessel *Explorer Starship,* which cruise between British Columbia, Canada, and Alaska during the summer.

During the winter, I think it is important to note that the *North Star* operates solely within the sovereign waters of Mexico. Again, Mexico unilaterally waived its cabotage law to allow such operations to spur economic development of its ports and gateway communities.

I feel, therefore, that I am uniquely positioned to testify in support of Senator Murkowski's bill, S. 2729, because our company is the only company operating U.S.-flag cruise vessels within the Alaska market and between the Pacific Northwest and Alaska.

I suppose it is our company, our employees, and our vessels that the existing antiquated laws are seeking to supposedly protect.

We need no such protection. We can compete head-to-head on the quality of the experience and the value.

Therefore, I believe the best interests of the United States and its citizens would be better served by the enactment of Senator Murkowski's bill. Also, the improvement that could be made to the trade deficit amounts to hundreds of millions of dollars.

I know that this is a complex issue. But I applaud you for the initiative to schedule this hearing and I sincerely feel an appropriate, limited, and measured type of action, as envisioned by S. 2729, is in the public interest.

The administration's position, as just presented by Mr. Creelman, is not up to date or in conformity with the present market facts or statistics.

The vast majority of the Alaska cruise passengers presently do select and cruise on a one-way basis, to be able to disembark in Alaska, and they should be allowed to do so, to spend those extra days and those dollars, within the United States.

The Maritime Administration has never contacted my company or asked us if we need or seek such protection, or asked for the market demand characteristics such as existing one-way or round-trip statistics in developing their position. Therefore, I believe you can have confidence in the U.S. business ability to compete in this marketplace.

Now, let me try to put into perspective my position and opinions on the several most weighty of the issues that are before you as you consider this bill.

One is the impact of the construction of additional U.S.-flag vessels.

First, let's isolate the size of vessels. The six small U.S.-flag vessels operated by our company—and there are several other companies operating such vessels under 100 gross tons—would remain protected from direct competition from foreign small cruise vessels of similar nature by the provisions in the bill to allow only foreign vessels greater than 1,000 gross tons to operate as proposed.

Our market realities and our cruise objectives require the shallow draft of these small vessels, and these could, and would, continue to be built in U.S. shipyards as the demand for more capacity in this small vessel category occurs.

The proposed bill protects the U.S. shipbuilders in this category.

However, let us particularly note that there has not been a single large cruise ship built in the United States since 1956—32 years ago. The three U.S.-flag vessels operating in Hawaii carry between 600 and 1,000 passengers, and are the only larger conventional full ocean-rated cruise ships under the American flag. Two of those vessels were built in 1951 and one in 1956.

It is a sad situation, but it is made even worse for America today by our outdated laws, which force the other residual benefits from foreign vessels to ports offshore.

In my opinion, it is improbable that new, large U.S.-flag vessels will be successfully built in American shipyards in the foreseeable future, because the construction cost is considerably more to begin with; and, more importantly, the new foreign-flag vessels built today are almost all beneficiaries of foreign government subsidies.

Construction subsidies up to 28 percent are common, along with attractive long-term financing packages. Some subsidies of up to 50 percent, and more, are available.

Since there are no construction subsidy programs in the U.S. Government for U.S.-flag cruise ships to be constructed, I believe it remains doubtful that competitive, new, large cruise vessels will be built. That is just the way the facts stack up.

Foreign governments subsidize the shipbuilding to create shipyard jobs and/or create jobs for their seamen aboard flagships of those nations. Since the U.S. Government is not competing in the world market for ship construction, then it should not also perpetuate a policy that forces the residual available jobs onshore to offshore ports.

Let us evaluate the impact on coastwise trading.

Since there are no larger U.S. overnight passenger vessels in the Pacific Northwest, west coast and Alaska markets now, there is no adverse impact to any U.S.-flag vessel of similar size by passage of this bill.

Since this bill also limits the geographic area and limits applicability to only passenger carrying cruise vessels, it would not affect any other category of coastwise trading, such as tankers, cargo, fishing vessels, or ferries.

Let's talk about the impact on employment of U.S. citizens.

As previously stated, passage of this proposed bill would not cause any impact adversely on existing U.S. jobs. We do not have a displacement issue of shipyard employees; or seamen being displaced, as such vessels in this size and geographic area do not exist.

In fact, just the opposite is true. Many new jobs would be created by favorable action on this bill, and that is why, as an American businessman, I support this legislation.

Presently, under the various regulations and Bureau of Customs interpretations, foreign flag cruise vessels already have almost unlimited access to cruise our coastwise waters by making only a single call at a foreign port, and they are benefitting from it greatly. For the most part, the United States derives no tax revenues from these ventures, and almost all onboard jobs are held by foreign citizens.

However, that is not all bad for America. In Alaska for instance, the hundreds of thousands of passengers who visit each of the small communities in Alaska support a tremendous employment base for the services needed.

Hundreds of small businesses have sprung up to provide sightseeing, flightseeing, salmon bakes, river rafting, cultural and native performances, sportfishing; and the restaurants, bars, and gift shops and other attractions and activities are supported almost solely by visitors arriving on these cruise vessels, both the foreign flags and the U.S.-flag smaller vessels of ours.

The issue here is the unfortunate regulations which force hundreds of millions of dollars to be spent exclusively in Canada, instead of allowing Seattle or other West Coast ports, plus the Alaska communities, to benefit from the homeporting of some of these vessels.

Right now, foreign-flag vessels originate in Vancouver, BC, or Prince Rupert in order to perform an international voyage. For such vessels, this forces all U.S. citizens to fly into Vancouver or Prince Rupert or be bused from Seattle, supporting the air carrier traffic into and employment at those Canadian airports.

People stay a few days before and after such a cruise in the origin or destination point. Therefore, our present laws are filling the hotels in Vancouver. Visitors are eating in their restaurants and supporting their tourism infrastructure.

The Canadian ports and cities benefit further since the vessels are provisioned, bunkered, repaired, and docked there. The waterfront and maritime related industry of Canada have the benefit of all the longshoring jobs this has created.

Yet, we presently have none of the benefits of this dynamic, growing cruise industry. We don't have the vessels and our ports do not have the business.

Certainly the foreign vessels and the Canadians have done a fine job of serving this need. But in the free marketplace of today, I believe U.S. west coast ports, like Seattle and Ketchikan, should be allowed to compete. It has been far too long that this legal, artificial, and harmful barrier has existed because of the perceived threat to America's maritime industry.

The facts are that maritime jobs will be created by passage of this bill, as the waterfronts and docks in U.S. ports would then have the job opportunities to support such foreign vessels, as previously explained.

We are not now protecting American jobs. We must look to a broader picture of the entire hospitality industry where new jobs would be created in the U.S. port cities, to provide visitor services—restaurants, bars, hotels, taxis, sightseeing, tour boat companies, department stores, gift shops—plus all those who supply such services as laundry, cleaning, supplies of food, fuel, repairs, et cetera, plus the jobs at our own U.S. airports. All would be stimulated, as would the financial community, by more transactions through the U.S. system.

I encourage you to give this proposal thoughtful consideration. I know there are concerns by various U.S. shipyard, shipping and maritime industries. But I believe the legislation can be structured to protect those areas of potential adverse impact and still provide a competitive position for U.S. ports to participate in a growing cruise market.

Cruising today is the fastest growing segment of the leisure industry. We need to get America up-to-date in competing for this business. Let's take actions that will allow U.S. ports, its cities, American companies and individuals to participate in this growth;

instead of letting these outdated laws push our dollars and our jobs offshore for the full benefit of others.

The business people I have talked to only want the opportunity to compete for this business, without Government restrictions that hold the business opportunities out of reach.

The time to act is now, and I believe the limited nature of this bill makes it a very conservative and positive action that will achieve the benefits that are envisioned, and yet protect areas of concern that surround any such policy change.

Thank you.

Senator **Breaux**. Thank you, Mr. Giersdorf.

Let me ask everybody to please summarize. Otherwise we are not going to be able to finish the hearing, which we certainly want to do.

Mayor Ferry, we thank you for coming all the way from Alaska.

STATEMENT OF HON. TED FERRY, MAYOR, KETCHIKAN, AK

Mr. **Ferry**. Thank you, Senator and members of the subcommittee for allowing me to testify today.

My throat is a little hoarse, so I hope you will excuse me.

Both S. 2728 and S. 2729 appear to be appropriate means to begin addressing the serious and growing problem of national scope. Because S. 2729 focuses on issues which are more closely related to the economic well-being of my area, southeast Alaska, I will concentrate my remarks primarily on that bill.

With each passing day, we are constantly assailed by further evidence of the fact that the American economy is simply no longer a strong competitor in the world marketplace.

From my perspective, as mayor of a small Alaskan community, which is highly dependent on waterborne transportation, I see considerable evidence of this situation. For example, in Alaska, at least, we find that our efforts to diversify the tourism industry have embarrassingly led to increasing numbers of travellers who spend significant amounts of money journeying abroad just to make tour ship connections for their visit to U.S. soil.

Primarily, as has been pointed out, that is Vancouver, BC, and Prince Rupert.

This is clearly an absurd situation, which most simply translates into unnecessarily lost income to U.S. businesses.

For obvious reasons, it certainly demands our full and immediate attention.

The need seems abundantly clear: something must be done soon. Congress is in a position to help with good, reasonable solutions.

As mayor of the city of Ketchikan, AK, I can assure you that this community will fully support any appropriate effort by Congress to address these problems.

The bills in questions, S. 2728 and S. 2729, appear to be at least a reasonable beginning. Therefore, to the extent that the proposed legislation will address some of these problems, I, and I believe the majority of the community, will support your efforts.

However, our support for S. 2728 and S. 2729 is not unconditional. The solutions which Congress considers must also offer real potential for dealing effectively with these problems on a long-term basis. In that light I believe the proposed legislation may need further review and it may possibly benefit from some revision.

For example, we in southeast Alaska are deeply concerned about the potential impact any proposed legislation, including S. 2729, could have on the Alaska Main Highway System. It is a domestic passenger vessel system linking various communities in Southeastern Alaska with each other.

Our concern is based on a very simple fact. The AMHS provides a vital, year-round transportation service for all Alaskan coastal communities, most of which have no other road access to the rest of the world.

Many of us are primarily on large islands.

Interestingly, the Alaska Main Highway System also plays a significant role in Alaska's growing tourist trade, providing opportunities for economic development to communities. And, importantly, all ports of call within the system, with only one exception, are located in the United States. It is a primary means by which Alaskan communities receive a large portion of many essential goods and services.

We can ill afford to reduce the ability of the Alaska Main Highway System to continue providing this indispensible service.

In order to shorten my testimony, Senator Murkowski has addressed those portions of it which I will omit, and I will move on to speed this up.

We fear that the proposed legislation may not go far enough. We sense that it only addresses the symptoms of the problem, leaving the basic issues still unresolved.

So we also urge Congress to act soon and aggressively to encourage and support in every reasonable manner the earliest possible development of a competitive domestic merchant marine.

We urge you to diligently tailor the legislation which is before you at this time.

We believe you should perhaps consider including appropriations of funds for grant or loan programs which are designed to encourage the development of a competitive American-based shipbuilding industry, perhaps also including automatic termination clauses which would be triggered by the resurgence of a competitive domestic industry.

In a similar vein, perhaps you could consider limiting any given amendment, for example, to perhaps 5 or 10 years.

I am quite certain that, given a little time, some good old-fashioned American ingenuity, and the dedicated work of your committee, Congress could soon develop a number of accepted alternative approaches which will be worthy of full consideration and which provide the basis to develop once again a vital, domestic maritime industry.

Finally, I want to emphasize my belief that the proposed legislation can be the first of many important, forward-looking steps toward reviving and strengthening our domestic merchant marine industry. Our ultimate goal must be balanced economic development.

Consideration of S. 2728 and S. 2729 is certainly a worthy beginning toward that end.

Obviously, completing this job will take a major commitment from all of us. Toward that end, I pledge you my support.

Again, thank you, Senators, for the opportunity of appearing before your Committee today.

Senator **Breaux**. Thank you.

Mr. Sims.

STATEMENT OF JOHN SIMS, VICE PRESIDENT FOR MARKETING, USIBELLI COAL MINE, INC.

Mr. **Sims**. Mr. Chairman and members of this distinguished committee, my name is John Sims. I am vice president of Usibelli Coal Mine, Alaska's only producing coal mine at this time.

Senator **Murkowski**. Would you pull the microphone a bit closer.

Mr. **Sims**. I am also president of the Alaska Coal Association, representing several companies that have been trying to develop new mining operations in the State of Alaska.

I speak today in support of S. 2728, which seeks to allow Alaska coal to be transported to the Hawaiian Islands under an exemption from the Jones Act.

Alaska coal—and let me characterize our resource base—is said to account for perhaps as much as 40 percent of the entire U.S. coal resource base, an enormous energy asset. And yet, our present production, which entirely comes from the Usibelli Mine, is a bare 1.5 million tons a year, or two-tenths of 1 percent of the U.S. production.

Clearly, we lack critical mass; but, clearly, we have an enormous energy asset, which bodes well for the economy of the State of Alaska and this Nation.

One of the greatest assets of Alaska coal is the extremely low sulfur content. In general, the entire Alaskan coal province contains the most abundant accumulation of environmentally benign low sulfur coal anywhere on this planet.

Mr. Creelman, in his testimony, cited a quality deficiency of Alaska coal—a high moisture content, which translates to a low heat value content, or fewer Btu's per ton.

Both my company and other companies with prospective interests in the development of Alaskan coal are addressing that problem and intend in the future to move ahead with technology to improve the quality of Alaska coal by beneficiation, which will lead to a product which will have very great marketability characteristics—a combination of high heat value and very low sulfur content.

I would like to take issue, too, with Mr. Creelman and his testimony on behalf of the administration, stating that U.S. coal, by its very nature, tends to be noncompetitive.

U.S. coal, as produced at the mine, is competitive. From 1980 to 1986, for example, average prices at the mine mouth throughout the Nation declined by 27 percent, and there has been an accompanying tremendous increase in the productivity of the U.S. coal mining industry.

Our company has participated in those trends.

Let me now focus on the Hawaiian situation because Alaska, in its unique geographical position, participates in the developing coal trade in the Pacific. We have legitimate interests there.

Our mine has been exporting coal to Korea for the last 3 years.

I became aware of the Hawaiian coal situation about 3 years ago, when it came to my notice that small volumes of coal were entering Hawaii from Canadian and Australian sources, essentially being consumed by multifuel, small plants operating on the various islands, with the capability of burning waste from sugar estates, heavy fuel oil and coal.

As the oil prices slumped, so that small volume of coal tended to be displaced.

But it is not the past that I want to dwell on; it is the opportunity for the future. This is because in the Hawaiian Islands, there are some potential developments taking place, which bode very well both for the quality of coal which Alaska can offer in abundance and in terms of the volume of the potential trade.

I would cite the development of a plant at Barber's Point on Oahu, which will go into production in 1992. That is the plant which has been referenced as securing coal from Indonesia, I believe, to the extent of about 1.2 million tons a year.

Another prospective development which I am aware of is the Hawaiian Electric Co.'s intention to convert one of the oil-fired units at the Kahe plant to micronized coal injection. That, if successful, could lead to the further conversion during the 1990's of additional plant capacity, thus developing the potential for a multimillion ton coal import opportunity.

By my estimations, if we look at the energy balance in the Hawaiian Islands changing in favor of coal displacing some current oil usage and together with these prospective developments that I have cited, by the late 1990's, it is not inconceivable that 3 million tons per year of coal could be required to satisfy opportunities in Hawaii. Now, that is not factoring in possible new demand growth as new plants are going to be needed to address a very vigorous demand growth for energy in Hawaii.

Alaska's interest here is to participate in this exciting natural potential market. It is my view that relief from the Jones Act is needed in order to supply prospective Hawaiian markets with Alaskan coal.

I am told that Hawaiian consumers of coal—and I have this on record—would prefer to buy American, but the premium imposed by the Jones Act is too high a price to pay in a competitive world. Absent relief from the Jones Act, as is proposed in S. 2728, in my judgment, everyone will lose: Alaskan or, in the broader sense, U.S. coal producers, and the maritime industry alike.

Quite simply, a promising opportunity will be lost to foreign coal producers and foreign shipping interests. By allowing an exemption from the Jones Act in this narrow and specific instance, American mining jobs could be created, without placing in jeopardy any existing merchant marine employment.

On the contrary, should Alaska's coal industry blossom, I would venture to suggest that more frequent sailings of foreign owned bulk carriers to overseas markets and Hawaii would create jobs in the maritime industries in Alaskan waters and not threaten jobs already in existence.

Mr. Chairman, S. 2728 is a good bill, which fosters opportunity, especially for Alaska and Hawaii, and, in the broader context, to

U.S. coal interests. Importantly for our State, it could be a catalyst in helping to build critical mass in Alaska's fledgling coal industry and the prelude to some exciting developments in the Alaskan economy.

Mr. Chairman, I thank you for the opportunity to testify this morning. I would be pleased to answer any questions.

Senator **Breaux**. Thank you, Mr. Sims.

Mr. Ostrovsky.

STATEMENT OF ERIC H. OSTROVSKY, ASSOCIATE DIRECTOR, COMMERCE AND TRANSPORTATION, GOVERNOR'S OFFICE, STATE OF ALASKA

Mr. **Ostrovsky**. Thank you.

My name is Eric Ostrovsky. I am the associate director of transportation and commerce for the State of Alaska.

I want to thank the subcommittee chairman, Senator Breaux, Senator Adams and Senator Murkowski for the opportunity to present the State of Alaska's views today.

Although we strongly support both of Senator Murkowski's bills, we would go on and urge the subcommittee to repeal the Jones Act, at least as far as it concerns Alaska.

Alaska is a maritime State. We have the largest coastline in the country and for many of our day-to-day goods that are delivered, we depend upon the sea trade.

On November 6, 1984, Alaska voters approved a measure, initiative 8302, that Senator Murkowski described in his opening statement, which directs the Governor of Alaska and the State of Alaska, whenever possible, to seek the repeal of the Jones Act.

The reasons for this bipartisan support in Alaska for the repeal are quite clear.

As has already been mentioned, the Jones Act costs the State of Alaska a great deal of revenue. Over $100 million to $400 million per year is directly lost to the State of Alaska due to reduced severance taxes and royalties.

As you may know, these severance taxes and royalties are determined through the wellhead price of North Slope crude oil, and transportation costs are factored into the wellhead price. Thus, the higher the transportation costs, the lower the severance taxes and the royalties.

According to the Alaska Statehood Commission—and that was a commission that was also enacted through a voter initiative to determine the State-Federal relationship—the Jones Act raises the cost of living in Alaska and, thereby, suppresses economic development. According to the commission, the Jones Act costs Alaska consumers and businesses approximately $41 million per year in added building materials, business supplies and consumer goods.

Since that time, I believe that the cost has gone up.

Another serious problem that arises from the Jones Act is it divides maritime commerce in Alaska into two classes—domestic commerce and export.

As you know, a foreign shipper on the west coast of the United States loading in the lower 48, when it comes up to Alaskan communities, it cannot carry domestic goods. By the same token, a foreign carrier coming into the United States with goods, stopping off in Alaska, cannot pick up fish and fish products and other Alaska products to deliver to the lower United States.

Since American shipping is usually more expensive, it makes it difficult for Alaskans and Alaskan industry to compete. That current system does not make any sense.

For those reasons, or much those same reasons, we support S. 2728, which would provide some relief to the Alaska coal industry. We would like to see the Alaska coal industry develop a domestic market, but it is going to be very difficult for that to happen when we have to compete with the Canadian coal industry, the Indonesian coal industry, the Chinese coal industry, all Pacific Rim nations which can supply coal and can do it with cheaper transportation costs.

The other bill, S. 2729, also makes sense. In my written testimony, I mention an analysis which was done, which mentioned that in 1983, there were 15 foreign cruise ship vessels that were visiting the Alaska coast. Since that time, there are now 29 vessels, and four of them, I believe, are American vessels. But almost all those vessels, as you have heard today, have either their destination or their origin in a foreign country, in this case Vancouver, and a few of them in Prince Rupert.

But we would like to see Alaskan communities be the port for those vessels, too, and we believe that it would bring significant commerce to the State of Alaska. It is for that reason that we do support the bill.

While we understand the importance of a strong domestic merchant marine, Alaska is shouldering more than its fair share of the burden. According to the Statehood Report, over one-third of the Jones Act fleet was involved in Alaska commerce. I believe since then it has grown.

Secondly, it also appears that the U.S. merchant fleet continues to decline in size, and the State of Alaska does not believe that supporting the Jones Act really creates this viable domestic fleet. For the reasons that I have just stated, the State of Alaska urges the subcommittee to support both these bills.

But we would go further, in fact, and we would urge the subcommittee to reconsider the whole Jones Act.

Again, I would like to thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF ERIC H. OSTROVSKY, ASSOCIATE DIRECTOR OF COMMERCE AND TRANSPORTATION, GOVERNORS OFFICE OF ALASKA

Mr. Chairman and Members of the Subcommittee:

My name is Eric Ostrovsky. I am the Associate Director of Commerce and Transportation in Governor Steve Cowper's Washington, D.C. office.

The State of Alaska appreciates the opportunity to comment upon S. 2728, which would permit coal to be transported in foreign-flag vessels between Alaska and Hawaii, and S. 2729, which would allow certain foreign-flag vessels to carry passengers among ports in Alaska and between points in Alaska and Seattle, Washington. While we support any reduction in the negative effects of the Jones Act on Alaska, we firmly believe that only a complete repeal of the Jones Act would allow Alaska citizens and businesses to exist and compete on an equal footing with the rest of the country. As is evidenced by a 1984 voter initiative directing an effort to repeal the Jones Act, I can assure you that the repeal of the Act has widespread, bipartisan support in Alaska.

The application of the Jones Act to Alaska has increased the costs of all domestic waterborne freight shipped to and from Alaska, and thus has prevented the use of the more efficient available transportation options. By imposing higher transportation costs on domestic commerce, the Jones Act also discourages the development of new petroleum and mineral deposits in Alaska. In the case of Alaska crude oil, the burden is reflected in reduced wellhead values; over $100-400 million per year may be lost to the state treasury due to lower severance taxes and royalties.

Another serious problem with the application of the Jones Act to Alaska arises from the strict separation of domestic and foreign waterborne commerce. Alaska could economically be served by vessels travelling from the U.S. Pacific Coast to the Orient. Western Alaska communities, with their severe employment problems, would particularly benefit from the ability to combine their domestic trade with this foreign service. The vessels currently providing international service, however, are prohibited by the Jones Act from stopping in Alaska and then continuing on with those goods to other domestic ports.

Studies of the cost of the Jones Act to Alaska consumers have shown that approximately $40 million per year are added to building materials, business supplies, and consumer goods shipped to the state. Given the existing high costs of living and working in Alaska, this additional burden is especially difficult for our citizens to endure.

For the reasons stated above, I urge your support of the exception allowed by S. 2728 for the limited relief that it would give to the Alaska coal industry. Alaska's coal industry is keenly interested in participating in coal trade with other U.S. ports. While the tonnage anticipated by the Hawaiian exception is not large by world standards, it would be extremely important to Alaska's coal mining and coal transportation industry. Even the small incremental growth of this interstate sale of coal would help provide economy of scale, thereby reducing production costs and providing additional growth which would help reduce rail rates, port loading rates and other costs of doing business in Alaska.

Another bill which I urge you to support is S. 2729. Currently no major American cruise ships ply the Alaska trade; in contrast, 15 large foreign vessels were in the Alaska tourist trade in 1983 and their number keeps growing. The Jones Act insures that the flourishing Alaska cruise ship tourist industry will continue to be primarily operated from a Canadian port. We would like to have major cruise ships operate from Alaska ports and believe that S. 2729 could help accomplish this goal.

While I understand the importance of the United States' cabotage laws and the necessity for a strong domestic merchant marine industry, I believe Alaska is unfairly shouldering this goal by supporting about one-third of the entire Jones Act fleet to the detriment of our consumers and businesses. This is true even though the Jones Act has proven ineffective in stemming the decline of the U.S. merchant marine industry.

Thank you for the opportunity to discuss this important matter to Alaska.

Mr. **Ostrovsky**. I would also ask permission at this time to insert copies of the following three documents into the record.[1] The first one would be a copy of Initiative Proposal 8302. That was the voter initiative which commanded the Governor and the State of Alaska to try to repeal the Jones Act.

The second document was from the Alaska Statehood Commission. It is titled, "The Jones Act and Its Impact on the State of Alaska," volumes I and II.

Finally there are three pages out of a MarAd report, "Domestic Water-Borne Trade in the United States in 1985," which updates some of the information which is in the report that was done by the Statehood Commission.

Thank you.

Senator **Breaux**. I thank all the members of the panel for their testimony.

Mr. Giersdorf, if you had passenger service reserved to you, why would it not be an economically viable thing for you to construct a U.S. vessel and just run it from Seattle to Alaska and back, knowing that it would be reserved for you as the only U.S. fleet operator?

Mr. **Giersdorf**. Presently, the construction of such a vessel—we spent $750,000 in design and building plans and submitted it to multiple U.S. shipyards and the construction cost today is not competitive with the other cruise lines providing similar ships.

Secondly, the general labor costs on board those vessels of that size on world markets today are much less, almost one-third the cost, of the wages that we pay our citizens.

Therefore, the protection, in fact, would just further hurt the type of business infrastructure support that all these lines are now providing for the ports and communities that they do make port calls at.

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[1] The documents were not reproducible.

Senator **Breaux**. Are you saying that even though you have a monopoly, as far as operation is concerned, that you still would not be able to make a go of it financially?

Mr. **Giersdorf**. Are you talking about the fact that——

Senator **Breaux**. Seattle—Alaska and back.

Mr. **Giersdorf**. I think this is where you have to take geography into effect. You are only 176 miles from Seattle to Vancouver, BC, and where we operate out of the other port, Prince Rupert to Ketchikan, there is only an 80 mile difference. So, even if there was a monopoly for a U.S. flag carrier, the potential of compliance with international trade today would still put all those foreign vessels much as they are today, and you still have to compete to sell an American product at a value relationship to foreign.

And, since we do not have the complete picture, a complete commitment by the U.S. Government to come in and subsidize construction and create maritime jobs and do the rest of it, then let's get out of this other arbitrary restriction that is preventing us from benefitting from the shoreside support.

I do not believe that, presently, the geographic situation in Alaska would still make that an exclusive monopolistic benefit that would solve that problem.

Senator **Breaux**. Mr. Sims, the Maritime Administration was really raising the point, I guess, with regard to the coal sales to Hawaii that there are factors other than the cost of transportation in a U.S. vessel that prohibit or make it unlikely that that type of endeavor will likely occur.

Do you disagree with that?

Mr. **Sims**. Mr. Chairman, in my remarks, I did mention that my company and other prospective producers in Alaska are looking at coal beneficiation technology, which would, in fact, produce a product with high heat value and low sulfur content, which, in our judgment, would command premium prices.

I think, given the nature of the Hawaiian market, this is a product which could, either from our company or from other prospective producers, find an opportunity there.

Senator **Breaux**. There is no question that the product itself would be more expensive because of the bit more difficult terrain and conditions in Alaska than it would be, say, if the coal were coming perhaps from a lower 48 State.

Mr. **Sims**. No, sir. I totally disagree with that judgment.

The very large deposits of coal which are prospective for development very close to Anchorage, on the west side of Cook Inlet, are only 12 miles from a deep water port site.

Our own mine is served by the Alaska railroad, and we are linked across the Alaska railroad, a distance of 360 miles, to the ice-free port of Seward, which has the capability of berthing *Panamax* sized vessels and routinely does to service our export trade to South Korea.

Senator **Breaux**. Have any of the coal producers in Alaska explored the feasibility of looking at the vessel that the Maritime Administration said that it had?

Mr. **Sims**. Not to my knowledge, sir.

All I am aware of is that a company in the vicinity of Anchorage, Beluga Coalfield, very close to Tidewater, had submitted a bid for the prospective supply contract to the Oahu plant due to come onstream in 1992.

It is my knowledge, without any direct contact with these people, however, but seeing correspondence, that they became deeply frustrated in trying to get any sort of quotation out of the U.S. maritime industry from the point of view of what price would be required to move coal from Alaska to Hawaii. They perceived—and I mentioned this in my testimony—a desire on the part of the Hawaiian interests to purchase domestic coal.

Senator BREAUX. I missed your point. Were these coal operators that have not been able to get price quotations from MarAd?

Mr. SIMS. This is a coal operator that has been active in Alaska in trying to develop a new mine in the Beluga field. The volume involved, 1.2 million tons, would have been an absolutely fantastic fit for the initial scale of operation that these people wanted to develop. The term of the contract, 15 years, would have given them the justification to move ahead with the development of that property.

But to the best of my knowledge—and I have the bid lists of the various supplies that bid on that coal supply contract—they became deeply frustrated because of the failure to reach any sort of conclusion with U.S. maritime interests with regard to the movement, the prospective movement, of that coal.

Senator ADAMS. Mr. Chairman, would you yield for a moment for a question on that?

Senator BREAUX. Certainly.

Senator ADAMS. Mr. Sims, during the period 1980–83, and into 1984, I was involved in private practice in conjunction with the U.S. Government in attempting to develop a sufficient coal port for supply of coal resources to Japan, which, at that time, was considering using it in their 10 utilities.

I am asking you the question: as part of the critical mass of an Alaskan shipping operation, do you have or do you have plans for or can you tell me how it would be accomplished that a coal port of sufficient size to establish your critical mass would be available for the supply operation that you indicate?

We found only two ports on the west coast that were capable of handling the sized vessels that coal operators wanted, one being down in the Long Beach area and the others being on Puget Sound.

Then, of course, the Canadian operation, which has a 10 million pound per day capacity, as I remember, you will run up against.

Could you tell me did your group have a plan to meet that problem, which is separate from the maritime problem, but inextricably tied to it?

Mr. SIMS. Senator, we do have a deep water coal loading port at Seward with a capacity, a rated capacity of 3 million tons a year. Currently, that facility is grossly underutilized, certainly servicing the contract which our company has with the Korean Electric Power Co. for the supply of a nominal amount of 800,000 metric tons per year.

Senator ADAMS. By size of vessel, *Panamax* or larger?

Mr. SIMS. *Panamax*.

Senator ADAMS. Not the larger?

Mr. **Sims**. It could, with some additional strengthening work on the jetty, accommodate vessels up to 120,000.

Senator **Adams**. Thank you.

I just want to welcome Mr. Giersdorf here, who is from Seattle. Welcome, sir. We are very pleased that you are here and appreciate your testimony.

Senator **Breaux**. I have just one final question for the panelists.

On the next panel a representative from Crowley Maritime, which operates over 400 vessels, about 95 percent of them are domestically operated. He says in their statement: "We don't dispute the fact that it is more costly to build ships in a U.S. yard rather than a foreign yard and to use U.S. citizens as crew, rather than foreign crews. We would argue, however, that the benefits to the nation derived from having a Jones Act fleet justify and outweigh the modest adverse consequences to certain sectors."

Do any of you or all of you disagree with that as a statement? Mr. Giersdorf.

Mr. **Giersdorf**. I disagree with it because we have priced such ships in both U.S. and foreign yards. We are talking here, however, of exclusively two large cruise ship technologies that no longer exist in the United States and shipyards have a different requirement.

Likewise, it is very different, the wages paid on-board foreign flag vessels to international crews, they very definitely are less than half.

Senator **Breaux**. It is a given that they cost more and that they cost more to operate.

His point is that we recognize that it is going to cost more, but that there is an overall benefit to the nation of having a U.S. maritime fleet available in time of a national emergency and that justifies the extra cost.

My question is does anybody disagree with that, assuming that it is going to cost more? There is no question about that.

Mr. **Giersdorf**. Well, I thought, in reality, if there were such ships being built since the 1950's, maybe there would be a fleet that you could turn to in a time of national emergency. But no such vessels exist. So I think it just speaks for itself.

Senator **Breaux**. Does anybody else have a comment?

Mr. **Sims**. I think I would identify with the same remark.

Senator **Breaux**. The Senator from Washington, do you have any more questions?

Senator **Adams**. I have no more questions. Thank you.

Senator **Breaux**. The Senator from Alaska, Senator Murkowski.

Senator **Murkowski**. Thank you, Mr. Chairman.

I will attempt to be brief.

This is a question for Mr. Giersdorf.

Do you have any figures off the top of your head as to the preference of passengers that are going to Alaska and taking cruises, those who would prefer booking a round-trip vis-a-vis those who would prefer booking for one-way and either coming back or going in an alternate way—in other words, one-way on the cruise ship and an alternate way of coming back?

Mr. **Giersdorf**. It is a changing dynamic market every year. I know that next year in Alaska because of the continuing gravitation toward one way cruising, there is a 40-percent increase in ships that are scheduling their ability for one-way crusies.

And as previously mentioned, the one ship out of Seattle, Sitmar Cruise Lines, has for 1989 announced that it is going back to a conventional itinerary out of Vancouver, and will not be basing this ship contributing or making available only the roundtrip cruising because of the restriction on roundtrip. That the availability to offer one-way passage so people can see the interior of Alaska is being created by the strong marketing efforts of the State of Alaska in generating the motivation for people to see not only the coastal ports but the interior, McKinley, Anchorage, Fairbanks, the Arctic communities and the other attractions that are the blend of the total Alaska experience.

That again comes with our geography and our natural attractions and we are right now setting with a law that absolutely fights the marketplace.

Senator Murkowski. If you have of any of the industry's statistical information on that, we would appreciate it for the record. Because I think it is counter to Mr. Creelman's testimony.

Mr. Creelman of MarAd stated in his testimony that the protection provided under the pending legislation for vessels under a 1,000 deadweight tons would act as a cap on the ability for U.S. operators to expand beyond the 1,000 ton limit. Do you agree with this argument?

Mr. Giersdorf. I am not sure I understood exactly what he was saying.

Senator Murkowski. He said in his testimony the protection for vessels under 1,000 deadweight tons would act as a cap on the ability of the U.S. operators to expand beyond that limit. Because we are saying foreign vessels under that will not be exempt.

So in your own business, you operate under 1,000 tons.

Mr. Giersdorf. Yes. But I believe that at such time as U.S. shipyards—or we could build flags, the U.S. flag within America and operate them, there would be no such cap. I believe that he ignores the whole premise that is worldwide today is that American businessmen and American workers can compete on the world economy just given the chance to do so.

Senator Murkowski. Do you believe that it would be practical for any vessels to relocate from Canadian ports of departure to Alaskan ports of departure if this exemption were granted?

Mr. Giersdorf. Oh, absolutely. I think the marketplace given the choice, that you would not see 100 percent abandonment of the Canadian ports, but you would see the opportunity for people to cruise one way from the California ports of Los Angeles or San Francisco and certainly from Seattle.

Seattle would be a great beneficiary of that as would Ketchikan. And I think you would see a distribution among the west coast U.S. ports of ships to compete for varying itineraries of varying lengths, and would spread the entire appeal and choice for the American public who make up over 90 percent of all these passengers anyhow.

I think if we are looking at the public interest, we should allow the American citizens to make such choices.

Senator **Murkowski**. Thank you. Mayor Ferry, could you comment on a new domestic shipyard located in Ketchikan, and the serviceability of that shipyard to accommodate foreign vessels as well as domestic vessels?

Mr. **Ferry**. I would be glad to. Along with the State of Alaska, we have approximately $40 to $42 million invested in a local marine repair facility. It is capable of taking ships up to 9,600 tons, approximately 400 some feet in length. We have had them in there longer. We had a log carrier in there that was over 500 some feet, but we could not get it completely out of the water, but we were able to repair it.

Senator **Murkowski**. Was that a foreign vessel?

Mr. **Ferry**. It was a foreign vessel. We recently had a Canadian ferry on there. I believe it was the *Queen of the North*. It is slightly over 400 feet. We have had at least one Canadian tugboat on there. We are looking for more business from British Columbia.

Senator **Murkowski**. So a Canadian ferry that has the availability of the Canadian yard would use an Alaskan shipyard with U.S. labor.

Mr. **Ferry**. Because of the turnaround factor, they are able to come into our yard in a shorter period of time. They were on that end of the run. They were on and off the drydock in less than 24 hours, and back on their regular run out of Prince Rupert.

Senator **Murkowski**. I think that says a great deal about the productivity of your Ketchikan yard, and I commend you.

Mr. Reurs, you mentioned that the passage of legislation similar to what is pending, S.2729, would increase the use of U.S. shipyards for repairs and routine maintenance.

Is this work currently being done in foreign yards, or does it depend?

Mr. **Reurs**. No.

Senator **Murkowski**. I noted that the S.S.—what is it? *Q.E. II*, now MV, is occasionally laid up for repairs in U.S. yards. Now, I assume you can give us an estimate on the volume and type of routine maintenance and repair work. Is it a matter of competitiveness or a combination of where the ships are located at a given time, or both?

Mr. **Reurs**. I can answer your question in general, but I could provide additional information if you wish on the actual figures.

Over the years, and this is now a question of probably 15 or 20 years, foreign flag cruise lines have increasingly been using U.S. shipyards for repair work, including routine repairs which are required by various regulations, and insurance companies and laws so that annually these ships undergo surveys and routine work.

But in addition, several ships have actually undergone quite some reconstruction in U.S. yards. My only point was that if you encourage the traffic, if you encourage the trade of these ships between U.S. ports over a protracted period of time, then the trend will be to increase the use of such shipyards because obviously the vesselowners try to do it when vessels are in the particular port. It saves time and not have to transit somewhere else.

Senator **Murkowski**. Mr. Reurs, do you believe some foreign vessels would relocate to U.S. ports if this legislation or legislation of this type were adopted?

Mr. **Reurs**. I would agree with what Bob Giersdorf said that one would not expect all of the traffic to move for instance from Vancouver to U.S. ports, but certainly, I think there would be substantial interest in making the shift.

Again, it would not happen overnight because these plans have to be made well in advance, and obviously, the lines have to study the marketing considerations as well. But I certainly would agree that there would be a lot of interest in moving ships to places like Seattle and other west coast ports to enable new types of itineraries which at the moment are not possible.

Senator **Murkowski**. Mr. Ostrovsky, can you briefly give us the reason for the Alaska referendum which you referred to in your testimony with regard to the Jones Act? How did it get to be a referendum?

Mr. **Ostrovsky**. Sure. At that time, back in 1984, in order to get an issue as a voter referendum you needed the signatures from at least 10 percent of the voters in the last general election. That was not even registered voters. That had to be voters who actually voted in the last general election.

On that initiative, it was around 20,000 petitions that actually had to be signed in order to get the referendum on. As I mentioned, by a very large majority, the initiative did go through.

Senator **Murkowski**. My last question is for Mayor Ferry. It is my understanding that Ketchikan has done a study on the potential impacts of this legislation which would basically provide for amendments to the Jones Act.

Can you give us briefly a dollar amount, job amount? I gather Leeta Rice has done some work in this area.

Mr. **Ferry**. I do not know if I could give you a dollar amount, but I do know that the personnel, particularly in the marine highway system, are concerned about changes in the Jones Act. But as I have stated, we support the changes and hopefully we will have an opportunity to address those changes down the line.

One of the impacts would be any loss of the marine highway vessels would impact our marine repair facility, and in turn, it has been a blessing I might say to the area because we have done many, many emergency jobs including the U.S. Coast Guard. I believe we had Scuris on there, and there has been a lot of emergency work done. So there does have to be a base amount of business in order for it to operate.

Senator **Murkowski**. I want to assure the citizens of southeast Alaska and the marine highway system that the way this specific legislation is structured will not affect the operation of the marine highway system by providing any competition by foreign ferries or foreign vessels carrying automobiles or cargo in any manner, shape, form or otherwise.

So I would hope that we all understand the specific intent. This is twofold. One, passenger ships do not sail from U.S. ports that potentially could. And the other question is the dilemma of what to do about coal. Do we just write it off, or do we come up with some innovative incentives?

Mr. Chairman, I would like at this time to thank these particular witnesses, three of whom have traveled from Alaska, Mayor

Ferry from Ketchikan, Bob Giersdorf from Seattle and Alaska, and Dr. Sims from Fairbanks, and thank the other witnesses as well.

I am submitting at this time written testimony that is not presented here because the witnesses could not be here in person. First, from Mr. Jim Johnson, Puget Sound Cruise Ship Alliance. And it is my understanding that these are generally supportive with certain qualifications. Mr. Harry Aronson, Port of Seattle, Fern Niemeyer, mayor of Wrangell. Also, letters from Alaska State representative Bill Hudson, and the Ketchikan Chamber of Commerce.

We also have received letters against the proposed legislation from Michael Crosby and Arthur Johnson of Ketchikan, and I would request permission that they be made a part of the record.

Senator **Breaux**. Without objection, they will be included in the record.

Senator **Murkowski**. The last point that I would make requires submitting for the record an actual copy of Senator Jones' statement from a hearing record dated May 5, 1920. That is taken from the record. It brought about this whole issue of the Jones Act.

In case you wonder what the particular discomfort was that caused this, I will take not more than one minute, and I will quote. Senator Jones stated in the hearing record of May 5, 1920:

> The necessity for the provision grows out of a situation peculiar to the trade between this country and Alaska. A Canadian steamship company maintains an agency in this country in Seattle.
>
> If I go to their office and tell them that I want to go from Seattle, WA, to Skagway, AK, an American port, what do they do? Under our coastwise laws they cannot sell a ticket directly from Seattle to Skagway. They can not send a ship directly from Seattle to Skagway under our laws. What do they do? They sell me a ticket to Vancouver, and at the same time, in the same office in Seattle, they sell me a ticket from Vancouver to Skagway.
>
> Then they send me to Vancouver. I get off one vessel and on to another and go on to Skagway. This provision, the Jones Act, is intended to prevent that.

So it sounds like, gentlemen, that we are making the complete circle, and as we addressed the Jones Act and passenger service from Seattle to Alaska, we are still mixed up in the continuation of the confusion.

I thank the Chair for allowing these witnesses to give this time and expert testimony, Mr. Chairman.

Senator **Breaux**. We thank this panel. We thank all of you for being here, and I would like to welcome up our next panel. Mr. Jack Park of the Crowley Maritime Corp., Mr. Frank Pecquex, legislative director for the Seafarers International Union, Mr. Karl Landgrebe, assistant to the president, National Marine Engineers Beneficial Association, and Mr. Ernest J. Corrado, president, American Institute of Merchant Shipping.

Gentlemen, we are pleased to have you. Mr. Landgrebe, I know you have a commitment. I do not know whether you are still going to make it. If you would like to present your testimony and summarize it, we would be happy to receive it.

STATEMENT OF KARL LANDGREBE, ASSISTANT TO THE PRESIDENT, NATIONAL MARINE ENGINEERS BENEFICIAL ASSOCIATION

Mr. LANDGREBE. Yes, sir. In view of the time, both yourselves and myself, Mr. Chairman, I have cut down my remarks, but you have the total testimony for the record.

My name is Karl Landgrebe. I am assistant to the president for the National Marine Engineers Beneficial Association, Mr. Gene DeFries.

We strongly oppose both S. 2728 and S. 2729. Both are unwarranted exceptions to the Jones Act that will cost jobs, not add jobs, and that could rapidly lead to a dangerous erosion of our overall merchant marine and defense capability.

Let me begin with S. 2728 which would permit foreign-flag vessels to carry coal between Alaska and Hawaii.

This bill is no different than numerous other special interest bills that seek such an exception, in one form or another, to the Jones Act. If enacted, it would start us down the slope to complete destruction of the act. After all, if this exception is allowed, why not forest products or anything else where cut-rate foreign flags can undercut the U.S.-flag. Where do you stop?

The truth is that if an exception such as this is allowed, there is no stopping point, and you can be sure that special interests and foreign interests will see that there is no end until the entire act is gutted and gone.

Mr. Chairman, this bill is built on at least two false premises. One is that U.S.-flag shipping costs are the only problem. Yet, that simply does not square with the facts. Alaska's coal is typically 8,000 Btu's per pound whereas Australia's coal is typically 10,000 to 11,000 Btu's per pound. What this means in plain English is that more tons of Alaska coal would have to be shipped to get the same amount of Btu's as the Australian coal. That means higher shipping costs for Alaskan coal no matter who does the shipping.

It is time to stop making the Jones Act a scapegoat for economic operations that cannot stand on their own. The second false premise concerns foreign coal and transportation subsidies. Senator Murkowski, in his statement introducing the bill, cites Australian and Canadian production and transportation subsidies as giving a competitive edge to foreign over domestic coal for Hawaii.

He assumes that if we just bust open the Jones Act and use foreign-flag vessels to carry coal from Alaska to Hawaii, that Australia, Canada, or any foreign competitor would accept defeat and get out of the trade. The truth is that if according to Senator Murkowski these nations are already providing subsidies to get the market for their coal, why would they not just provide a few more subsidies to hold that market? That is what we believe these foreign coal competitors would do.

Therefore, the solution in S. 2728 would not counter this likely eventuality.

The second bill, S. 2729 has even less to recommend it. Once more, this is a bill that would wind up costing American jobs not creating them. The only beneficiaries of this bill would be foreign-flag operators using American vacationers and American dollars at the expense of American jobs and American tax revenues.

If this bill becomes law then existing U.S.-flag cruise vessels would be at risk for as with the coal carriage exception, where do you draw the line when one exception has been made? Foreign operators already dominate most of the U.S. cruise market, pay little or no U.S. taxes, yet still want it all. That is what this cruise ship exemption really represents.

Mr. Chairman, I represented the Puget Sound area for MEBA for almost a decade before being assigned to the Washington headquarters. I know well the sentiments of a few port interests out there that the Jones Act is seemingly an artificial obstacle to Washington State receiving a share of the cruise ship business.

Most people recognize however that the Jones Act has fostered development of a huge containership and tug and barge industry between Puget Sound and Alaska. There is an apprehension, and properly so, that tampering with the Jones Act for the benefit of the foreign cruise industry could jeopardize and undermine Jones Act protection for high value commercial shipping. This is a risk no one in Seattle can afford.

In short, the gains that might be realized are nowhere near as important as what would be lost to the local Pacific Northwest economy both in shipping, ship repair, and shipbuilding if the Jones Act were breached and eventually destroyed as a result of this bill.

We believe it could wind up destroying the Alaska marine highway system. This ferry system is not only a wonderful way to see the State of Alaska, it is an essential service to the maritime communities along the coast of Alaska. It provides jobs and communication. It brings tourists to areas where tourists might never come.

If large foreign-flag cruise vessels are permitted to carry passengers between Washington State and points in Alaska, these vessels would then divert passengers from this system, and they would be diverted from the most profitable part of the trade. Could the ferries keep going with this type of diversion? The answer is no. Certainly, not without substantial subsidies that I believe neither the State of Alaska nor the Federal Government are willing to pay.

These ferries provide jobs and a lifeline to thousands of Alaskans. And because many of these ferries are aging and will need to be replaced, they offer hope for Pacific Northwest shipbuilders at a time when commercial shipbuilding is in a terrible state. The foreign-flag cruise liners have no loyalty to Alaskans. They would merely come in, skim the cream off the top, and then leave the rest of the ferry system to fend for itself.

That would leave the State with one of two unpleasant possibilities, higher subsidies or ghost towns up and down the Alaska coast.

This bill raises a broader point I want to address now. It concerns the role of the foreign-flag cruise lines that base virtually their entire operation on the U.S. market.

In short, they are a clear case of privilege without responsibility. These foreign-flag cruise lines could not exist without the U.S. market. In most cases, the last time, if ever, that they see their home country is they day their maiden voyage begins, and the only time they leave the U.S. market is to get repairs and overhauls done in a foreign yard.

These vessels pay very little or no taxes. They pay no State taxes. Their employees' wages are not subject to U.S. withholding. They do not pay local or State sales tax, excise taxes, gambling taxes, liquor taxes, et cetera.

They avoid U.S. Customs costs. They are not subject to the same U.S. Coast Guard safety standards. Their public health inspections are random not mandatory. They are not required to pay royalties and licenses for their onboard entertainment. Their officers are not subject to the same stringent licensing standards, and they have already been given a toehold in the Jones Act market by recent liberalized U.S. Customs rulings concerning the time vessels can spend in a U.S. port.

These foreign-flag cruise vessels have all the advantages in the world handed to them on a silver platter in one of the most lucrative, profit-generating cruise sectors in the world. This bill is the last thing we need at this time. It piles privilege upon privilege. It rewards foreign competitors who must be laughing behind our backs all the way to the bank, and it would deny to the United States forever the opportunity to strengthen the U.S.-flag passenger fleet.

Mr. Chairman, in conclusion, we oppose strongly both of these bills. They would undercut what you and many other legislators have done to strengthen the U.S.-flag fleet. They will not even achieve what their proponents envision, and they would threaten not one or two vessels or even a small portion of the domestic fleet. They are a threat to our entire merchant marine.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF KARL M. LANDGREBE, ASSISTANT TO THE PRESIDENT, NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION

Mr. Chairman, my name is Karl M. Landgrebe. I am assistant to the President of the National Marine Engineers' Beneficial Association, Gene DeFries. We strongly oppose S. 2728 and S. 2729. Both are unwarranted exceptions to the Jones Act that will cost jobs, not add jobs, and that could rapidly lead to a dangerous erosion of our overall merchant marine and defense capability.

Let me begin with S. 2728 which would permit foreign-flag vessels to carry coal between Alaska and Hawaii.

This bill is no different than the numerous other special interest bills that seek an exception, in one form or another, to the Jones Act. If enacted, it would start us down the slippery slope to complete destruction of the Act. After all, if this exception is allowed, why not forest products or anything else where cut-rate foreign flags can undercut the U.S.-flag? Where do you stop? The truth is that if an exception such as this is allowed, there is no stopping point—and you can be sure that special interests and foreign interests will see that there is no end until the entire Act is gutted and gone.

The Jones Act is absolutely essential to the U.S. merchant fleet. It means jobs for tens of thousands of Americans, jobs in a defense industrial base that is rapidly declining as more and more of our basic industrial strength is exported. Although the Jones Act became law in 1920, the principle it embodies has been with us since our nation began. Similar restrictions are practiced widely by other nations, such as France, Japan, Canada, and Australia. It should be strengthened, not picked apart, bit by bit.

Mr. Chairman, this bill is built on at least two false premises. One is that U.S.-flag shipping costs are the only problem. Yet that simply does not square with the facts. Alaska's coal is typically 8,000 Btu's per pound, whereas Australia's coal is typically 10,000–11,000 Btu's per pound. What this means in plain English is that more tons of Alaska coal would have to be shipped to get the same Btu's as Australian coal. And that means higher shipping costs for Alaska coal no matter who does the shipping. It is time to stop making the Jones Act a scapegoat for economic operations that cannot stand on their own anyway.

The second false premise concerns foreign coal and transportation subsidies. Senator Murkowski, in his statement introducing this bill, cites Australian and Canadian production and transportation subsidies as giving a competitive edge to foreign over domestic coal for Hawaii. He assumes that if we just bust open the Jones Act and use foreign-flag vessels to carry coal from Alaska to Hawaii, that Australia, Canada, or any foreign competitor would accept defeat and get out of the trade. The truth is that if, according to Senator Murkowski, these nations are already providing subsidies to get the market for their coal, why would they not just provide a few more subsidies to hold the market. That is what we believe these foreign coal competitors would do. Therefore, the solution in S. 2728 would not counter this likely eventuality. It also would not lower the higher cost per Btu of delivered Alaska coal. All it would do is to provide jobs for foreign seamen—at the expense of American seamen—on foreign ships in an effort to beat out foreign subsidies. We believe this effort would fail while, at the same time, gravely damaging the Jones Act.

The second bill, S. 2729, has even less to recommend it.

Once more, this is a bill that would wind up costing American jobs, not creating them. And if it led—as we believe that it would—to a further erosion or destruction of the Jones Act, then the loss of jobs would be not a pin prick but a hemorrhage.

The only beneficiaries of this bill would be foreign-flag operators—using American vacationers and American dollars at the expense of American jobs and American tax revenues.

Mr. Chairman, this bill, like other bills that would allow foreign-flag passenger vessels into our Jones Act trades, starts with the assumption that there are no large U.S.-flag passenger cruise liners. There are, in actuality, three operating in the Hawaii trades today, and two more large liners are planned by Mr. George Steinbrenner. Now admittedly, these all are now in or planned for the Hawaii trades, but it is simply wrong to say there are no large U.S.-flag passenger vessels, or that none can be built or operated, or that vessels now in other U.S. domestic trades can never operate along the Alaska Coast, as this bill would mean in practice.

If this bill becomes law, then these vessels would be at risk, for, as with the coal carriage exception, where do you draw the line when one exception has been made? Foreign operators already dominate most of the U.S. cruise market and pay little or no U.S. taxes, yet still want it all. That is what this cruise ship exemption really represents.

Senator Murkowski offers a vision of jobs and commerce resulting from his bill's allowing foreign-flag cruise ships to start their voyage to Alaska from U.S. Pacific Northwest ports. In fact, if such permission were granted, there is no guarantee that the voyagers would spend any more money in the United States. Wouldn't they just schedule their flights to go from the airport straight to the vessels—resulting in little infusion into the local economy?

Mr. Chairman, I represented the Puget Sound for MEBA for almost a decade before being assigned to the Washington headquarters. I know well the sentiments of a few port interests out there that the Jones Act is seemingly an artificial obstacle to Washington State receiving a share of the cruise ship business. Most people recognize however that the Jones Act has fostered development of a huge containership and tug and barge industry between Puget Sound and Alaska. There is an apprehension, and properly so, that tampering with the Jones Act for the benefit of the foreign cruise industry could jeopardize and undermine Jones Act protection for high value commercial shipping. This is a risk no one in Seattle can afford.

In short, the gains that might be realized from S. 2729 are nowhere near as important as what would be lost to the local Pacific Northwest economy, in shipping, ship repair, and shipbuilding, if the Jones Act were breached and eventually destroyed as a result of this bill.

Indeed, it is just this point as well that leads me to question how this bill can, in any way, be conceived as a benefit to the State of Alaska. We believe that it could wind up destroying the Alaska Marine Highway System.

This ferry system is not only a wonderful way to see the State of Alaska, but it is an essential service to many marine communities along the coast of Alaska. It provides jobs and communication. It brings tourists to areas where tourists might never come. If large foreign-flag cruise vessels are permitted to carry passengers between Washington State and points in Alaska, these vessels would then divert passengers from this system, and they would probably divert the most profitable part of the trade. Could the ferries keep going with this type of diversion? The answer is no—

certainly not without substantial subsidies that I believe neither the State of Alaska nor the Federal Government would be willing to pay.

These ferries provide jobs and a lifeline to thousands of Alaskans. And because many of these ferries are aging and will need to be replaced, they offer hope for Pacific Northwest shipbuilders at a time when commercial shipbuilding is in terrible straits in this country. The foreign-flag cruise liners have no loyalty to Alaskans. They would merely come in, skim the cream off the tip, and then leave the rest of the ferry system to fend for itself. That would leave the State with one of two unpleasant possibilities—higher subsidies or ghost towns up and down the Alaska coast. In short, far from being a pro-Alaska bill, it is actually anti-Alaska—and every Alaskan who depends on this sytem should recognize this bill for what it is.

This bill raises a broader point that I want to address now. It concerns the whole role of foreign-flag cruise lines that base virtually their entire operations on the U.S. market.

In short, they are a clear case of privilege without responsibility.

These foreign-flag cruise lines could not exist without the U.S. market. In most cases, the last time, if ever, that they see their home country is the day their maiden voyage begins and the only time they leave the U.S. market is to get repairs and overhauls done in a foreign yard.

These vessels pay very little or no U.S. taxes. They pay no state taxes. Their employees wages are not subject to U.S. withholding. They do not pay local or state sales taxes, excise taxes, gambling taxes, liquor taxes, etc. They avoid U.S. Customs costs. They are not subject to the same U.S. Coast Guard safety standards. Their public health inspections are random, not mandatory. They are not required to pay royalties and licenses for their on-board entertainment. Officers are not subject to the same stringent licensing standards. And, they have already been given a toehold in the Jones Act market by recent liberalized U.S. Customs rulings concerning the time vessels can spend in a U.S. port.

These foreign-flag cruise vessels have all the advantages in the world, handed them on a silver platter in one of the most lucrative, profit-generating cruise sectors in the world. And now they are asking for every last morsel, dessert to top off a bacchanalian feast of privilege. They want, in essence, through this bill, to drive every U.S.-flag vessel over 1,000 tons out of the U.S. Coastwise trade.

We believe that instead of handing these highly profitable foreign cruise lines the Jones Act trade in addition to every other privilege they are granted, we should start making these operations contribute back to the U.S. Government and U.S. economy and taxpayers. After all, here we have a multi-billion dollar industry, making record profits, that pays little or no taxes and that is free of virtually all U.S. laws—yet an industry that would not exist were it not for the U.S. laws—yet an industry that would not exist were it not for the U.S. market and that operates in it and only in it.

This bill, S. 2729, is the last thing we need at this time. It piles privilege upon privilege. It rewards foreign competitors who must be laughing behind our backs all the way to the bank. And it would deny to the United States forever the opportunity to strengthen the U.S.-flag passenger fleet.

Mr. Chairman, in conclusion, we oppose strongly both of these bills. They would undercut what you and many other legislators have done to strengthen the U.S.-flag fleet. They will not even achieve what their proponents envisage. And they would threaten not one vessel or two vessels or even a small portion of the domestic fleet. They are a threat to our entire merchant marine.

Thank you, Mr. Chairman.

Senator **Breaux**. Thank you, Mr. Landgrebe. I know you indicated that you had to be somewhere else. I do not know whether Senator Murkowski would have any questions of you. I am prepared to let you depart.

Senator **Murkowski**. Well, the only question I would ask is this. I think you made a reference earlier with regard to jobs. You said something to the effect that the legislation cannot make jobs. That it is going to lose jobs. And I wonder, as a consequence of the testimony given with regard to the cruise ship coming into, sailing out of U.S. ports, if you would still adhere to that premise?

Mr. **Landgrebe**. I would, Senator, because I believe it would take away from the small sector that we already have. It would gradually degenerate further our own fleet, and thus take away more jobs.

Senator **Murkowski**. Would you identify specifically where you see a loss of jobs?

Mr. **Landgrebe**. Well, I see them in the Alaska State ferry system and the Alaska marine highways.

Senator **Murkowski**. Well, as you recognize, this specifically excludes the operation of ships that qualify as ferries—that is, carrying cargo and so forth.

Mr. **Landgrebe**. I recognize that.

Senator **Murkowski**. The only vessel that we have currently with the capacity to operate as a ferry is, I think, the *Sundancer*. That is one ship and I think it operates out of Vancouver currently because it is a foreign vessel. But it is limited to taking automobiles with passengers.

And since this legislation specifically excludes ferries, I fail to understand how you can interpret that it is a threat to the Alaskan marine highway system.

Mr. **Landgrebe**. Well, Senator, I am aware that you are not trying to bring foreign-flag ferries in here. Where I see a loss in jobs is the foreign-flag cruise lines coming into Seattle which is now served by the Alaska marine highway with three line haul vessels syphoning off the passengers from that profitable part of the Alaska marine highways and leaving you with the transportation end of it up in southeast Alaska, and none of the benefits coming from or to you.

Senator **Murkowski**. I think if you studied the Alaska marine highway system, you would conclude that it was not and does not continue to be designed to operate from Seattle. There is one ferry per week, and now that ferry is going to be operating out of Bellingham rather than Seattle as a consequence of a more favorable proposal by the Port of Bellingham.

The ferries operate in volume out of Prince Rupert on the southeastern system as part of the fleet route. And there is still a question in Alaska as to the merits—from the standpoint of the return to the state—of operating down in Seattle. But that is neither here nor there. It is a very weak point to suggest it is going to be detrimental to the continued operation of the one voyage a week when in reality you cannot get on that ferry during the summer unless you have made your reservations the previous winter. The waiting list is almost impossible to get on. In the wintertime, of course, traffic decreases like all seasonal activity in Alaska, and you can get on. There is plenty of space. You can meet yourself going and coming on the ferries.

That is why about two-thirds of the ferries are laid up during the winter.

Mr. **Landgrebe**. I am aware of that, Senator. I negotiated with the ferries for almost 10 years up there, and I am aware that they are talking of moving to Bellingham which again is just across the line from Vancouver. So I think right there is a loss of jobs.

Senator **Murkowski**. But it is not U.S. jobs. It is just the transfer of U.S. jobs from Seattle to Bellingham. I am not going to pursue it beyond a reasonable point, but if you consider moving 50 percent of the volume that is in Vancouver to either Seattle or Portland, you are going to have longshore jobs that you do not have now. You are going to have lightering. You are going to have garbage collection. You are going to have chip-chanderling. You are going to have fuel. These are all going to Vancouver now.

Now, rather than just take a litmus test on the Jones Act, it seems to me that with your knowledge and your necessary interest in expanding the U.S. jobs base, there should be some way to capture the advantage of a situation that is already in existence for the benefit of the U.S. interest.

Mr. LANDGREBE. Well, I think that is what the Jones Act is about. It is to be for the benefit of U.S. citizens when the trade is between our sister States, and not to benefit a foreign-flag operation that basically is a domestic operation in all except applying, living by our laws, paying our taxes and being up to the standards of a U.S. flag ship which eventually, you know, we have heard testimony here today without CDS, what is the Jones Act?

Well, I think that is something we have to address, but not by doing away with the Jones Act. By putting the CDS back.

Senator MURKOWSKI. I think I made my statement very clear. I do not intend to do away with the Jones Act by any imagination, and my statement is available in the backroom. But I think we are losing potential jobs simply by allowing the cruise ship policy to be maintained in its current state.

Mr. LANDGREBE. Senator, saying you are not going to do away with the Jones Act, you are going to just change it a little bit, is sort of like the administration has not done away with title XI, they have just changed it a little bit to the point where it is no more.

Senator MURKOWSKI. Well, I have read you nine amendments to the Jones Act plus amendments to the Shipping Act, and we still have the Jones Act, and the merits of these amendments have allowed us to survive within the protection of the Jones Act, but I think we are failing to address a specific opportunity here, and that is the question of whether we want these foreign cruise ships which are a reality, that are built, that are operating in virtually worldwide service, to continue operating out of foreign ports with U.S. passengers, or whether we want to try to get some of that business into the United States.

Now, this addresses passenger ships alone. I think that the issue on freight and cargo has been addressed in the sense of agreeing on the necessity of protecting those who have investments. And I have maintained that in my opening statement very clearly. The simple reason to bring the Hawaiian coal issue up is to decide whether we want to just ignore the possibilities and operate under the status quo where we will not have any involvement, or whether we want to use some ingenuity to try and generate some new American jobs.

These are restrictive covenants in the form of potential amendments, not efforts to do away with the Jones Act. So I can appreciate your interpretation, but I want to make it very clear that the intent of this Senator from Alaska is to address the merits of exceptions.

Senator **Breaux**. Mr. Landgrebe, thank you very much. We are prepared to go ahead and excuse you, and we will accept additional submissions if you want to submit them.

Mr. **Landgrebe**. Thank you.

Senator **Breaux**. Mr. Park.

STATEMENT OF JACK M. PARK, VICE PRESIDENT, GOVERNMENTAL RELATIONS, CROWLEY MARITIME CORP.

Mr. **Park**. Good afternoon. My name is Jack Park and I am vice president of Crowley Maritime Corp.

Crowley Maritime Corp. opposes S. 2728. Its passage would substantially weaken the Jones Act, the most effective maritime promotional statute in effect today, the lifeblood of U.S.-flag domestic carriers and principal source of commercial ship construction in U.S. shipyards.

Although there are only two representatives present today from the trade association or companies in opposition to S. 2728, several companies and associations have submitted, or will submit, statements opposing the bill, and they have asked me to bring their statements to your attention.

These associations and companies are the American Waterways Operators, the Transportation Institute, Lake Carriers Association, SeaLand Corp., Matson Navigation Co., and Puerto Rico Marine Management Inc.

In the interests of time, I am not going to go over things you already know. But suffice it to say that Crowley Maritime is a major player in the domestic trades, and principally to Alaska, Puerto Rico and Hawaii, and the coastwise trade. We carry all types of commodities principally in barges.

These barges are readily adaptable to the carriage of almost any type of cargo. But not only are there companies like ourselves in the domestic trades, but our competitors are extremely effective in providing fair rated, cargo transportation in modern roll-on roll-off ships, container ships and tankers.

I would like to summarize from the last page of my testimony the reasons why we oppose this. But before I do if I may I would like to just comment on some of the things that have been said today.

First of all I want to recognize the fine statements made by Senator Murkowski in support of the Merchant Marine, and I certainly appreciate that. I guess it is obvious that a company like ours is probably going to fight for the status quo, despite the fact that you would refer to that as an easy copout.

But we look to alternatives, and we are not sure there are really very many. You suggested a subsidy. We know in the international trade, for instance, there is a tremendous problem in how to take dwindling subsidy monies and distribute them among the U.S.-flag carriers. That one begs of a solution and I do not see how subsidy is going to come to those in the domestic trades.

There have been plenty of things that have happened adversely to the domestic fleet in recent months, primarily in the tax field. A Capital Construction Fund has been greatly curtailed as a consequence of making it a preference item subject to the minimum tax.

ITCs have been taken away and depreciation has been extended so that there is not as great a beneficial effect from that. So if somebody wanted a healthy industry, to make it more competitive, these are areas that no doubt could be subject to improvement.

Senator Murkowski referred to the extra cost to Alaskan citizens of the Jones Act. I guess you can get a study made to show anything you wanted to show. But the Transportation Institute had a study made in 1983 which showed the price differential effect on the retailer to be one half of one percent.

We understand that the General Accounting Office is completing a study at the present time which should clarify that issue.

Senator Murkowski, you referred to the referendum on the Jones Act, and you said that the vast majority of Alaskans obviously oppose the Jones Act. I think your count was 117,000 to 78,000.

That really does not surprise me. I think if anything surprises me it is that 78,000 Alaskans would vote for the Jones Act. And I think they deserve a compliment for the clarity of their thinking.

I want to emphasize that when we talk about Alaska coal, this bill only deals with Hawaii. Some of the people have testified as if we were fighting their competition worldwide.

It would seem that the distance to the Far East would make them competitive in that trade, if they had a competitive product.

So, to summarize our objections, we say:

First, that the Jones Act is the foundation for the U.S. domestic fleet.

Second, the U.S. domestic fleet is essential to provide reliable shipping in national emergencies, as well as in peace time.

Third, the existence of the U.S. domestic fleet is seriously threatened by Jones Act exemptions. And here I would like to refer to Mr. Ostrovsky's statement. There has been talk about the exemptions not being significant, but Mr. Ostrovsky is suggesting that they ought to repeal the Jones Act. So is there any wonder that we get concerned when exemptions are suggested, and people come up and say, let us do more, let us repeal the Jones Act.

Fourth, exempting the shipment of Alaska coal to Hawaii will not assure that an Alaska coal producer will be the successful bidder for the Hawaii contract.

Fifth, if an Alaska producer did obtain the Hawaii contract, the gain for Alaska employment would be relatively small. And I point out that by comparison Crowley Maritime Corp. employs 4,000 people, about half of whom are in the Jones Act trade, and whose employment we think would be at risk.

Sixth, exempting Alaska coal shipments is discriminatory vis-a-vis coal and other products shipped between other states and Hawaii. Senator Murkowski has perhaps taken the sting out of that one by amending his bill, but that makes me even more nervous because now we do have to worry not only about Alaska coal, now we have got to worry about Utah and Wyoming coal being shipped on foreign-flag ships.

We therefore urge the committee not to report out S. 2728.

Our statement did not comment about S. 2729. We gave it a lot of thought. And we have come down to simply stating that it is a matter of great concern to us.

We have some tour boat and commute service in California. And we worry about the same effect on the Passenger Service Act as on the Jones Act where you get an attrition effect. Mr. Giersdorf mentioned, for instance, in his testimony the opportunity to allow transportation between San Francisco and Seattle. That kind of thing makes us awfully nervous.

That is all I have, sir.

[The statement follows:]

STATEMENT OF JACK M. PARK, VICE PRESIDENT, GOVERNMENTAL RELATIONS, CROWLEY MARITIME CORPORATION

Good morning, Mr. Chairman and members of the Committee. My name is Jack Park and I'm the Vice President of Governmental Relations, Crowley Maritime Corporation.

Crowley Maritime Corporation opposes S. 2728, which would permit the shipment in foreign-flag ships of Alaska coal to Hawaii. Its passage would substantially weaken the Jones Act, the most effective maritime promotional statute in effect today, the lifeblood of U.S.-flag domestic carriers, and principal source of commercial ship construction in U.S. shipyards.

CROWLEY MARITIME CORPORATION

Crowley Maritime has existed for almost a century, operating, until recently, almost entirely in the domestic trades. In this decade we have expanded into the foreign trades, but 50 percent of our revenues continue to be derived from domestic services. We started with one boat in San Francisco Bay and now operate 400 vessels, 95 percent of them domestically.

Our growth is due in large part to the policy maintained since the company's inception of reinvesting most of the profits in new equipment. The depreciated book value of assets now approximates $400,000,000.

In the domestic trades we operate common carrier service:

Between the U.S. mainland and Puerto Rico. Mainland ports served directly are Philadelphia, Jacksonville, Mobile and Lake Charles.

Between the U.S. mainland and the Alaskan railbelt and Western Alaska.

Between the U.S. mainland and Hawaii. Mainland ports served directly are Seattle, Portland, Oakland, and Los Angeles.

Contract services are provided wherever requested but most notable are:

Carriage of bulk petroleum and urea between points on the West Coast including Alaska.

Almost exclusive carrier by water to the North Slope of Alaska.

Door-to-door shipping to the military's Distance Early Warning Line (DEWLINE) in Alaska.

The service provided in our domestic trades by all carriers is effective and efficient. Crowley operates tugs and barges, but what tugs and barges they are! Included in our inventory are 730 feet long, triple-deck barges capable of transporting 512 40-foot and 45-foot highway trailers; 400-foot long double-deck barges to haul 54 railcars along with 110 highway trailers; bulk commodities barges; submersible barges used for a variety of purposes including the carriage to the North Slope of Alaska of pre-built buildings 95 feet tall, 100 feet wide, 350 feet long, weighing up to 5,000 tons each; oil barges carrying 150,000 barrels of fuel; 9,000 hp tugs.

Our vessels are ideally suited for the trade routes in which they operate involving moderate distances and in many cases undeveloped ports or shallow harbors, and for the cargoes they carry—rail cars, highway vehicles, petroleum, bulk commodities, large buildings, lumber, as well as containerized cargoes.

Barges are readily adaptable to the carriage of almost any type of cargo.

THE DOMESTIC INDUSTRY

Our domestic competitors operate modern roll-on, roll-off ships, container ships, and tankers. There is substantial competition among the carriers which has resulted in year-to-year improvements in vessels, terminals, and other equipment, fair freight rates, and dependable schedules. Containerization, which has revolutionized worldwide shipping, was initiated and brought to fruition by two U.S. carriers serving the domestic trades.

THE JONES ACT AND NATIONAL DEFENSE

The principal justification for the Jones Act is to provide a source of vessels and manpower to meet national defense needs including the reliable transport of cargoes between U.S. ports in the event of national emergency. The large vessels in the Jones Act fleet have in fact been tagged as available for diversion, if necessary, from the domestic trades to carry military equipment and supplies to combat zones. Tugs-and-barges have not been similarly catalogued, but they are recognized as having invaluable utility during periods of war or other emergencies. They can continue to meet economic domestic shipping rquirements during those times, i.e., Alaska, Hawaii, Puerto Rico. Defense officials have also identified the need for overseas logistic support by tugs and barges similar to that provided in the Vietnam War or for temporary port facilities in assault areas. The personnel who operate the tugs in domestic trades represent a valuable source of skilled manpower to offset the projected mobilization deficiency.

An important justification for the Jones Act is the statutory requirement that Jones Act vessels be built in the United States, thus providing commercial work for U.S. shipyards.

Many members of Congress have been seeking solutions to the decline of the maritime industry, but proposed solutions have floundered because of their unacceptable cost during these times of severe budget deficits. Generally, however, it has been recognized that maintaining the integrity of the Jones Act, and where possible strengthening it, is one viable alternative that does not impact on the federal budget.

To summarize—the Jones Act has created effective and efficient shipping services which are critical to the national defense, are a source of work for U.S. shipyards, and one solution to sustaining the U.S. merchant marine with minimal impact on the federal budget.

EXEMPTIONS FROM THE JONES ACT

The Jones Act is a frequent target of shippers unable to compete in particular markets. We don't dispute the fact that it is more costly to build ships in U.S. yards than in foreign yards, and to use U.S.-citizen crews rather than foreign crews. If it were not more costly there would be little justification for the Jones Act. We would argue, however, that the benefits the nation derives from having a Jones Act fleet justify and outweigh the modest adverse consequences to certain sectors.

The problem is not that one small segment of shipping is exempted from the Jones Act and some identified amount of cargo is moved on foreign-flag ships. The problem is that when one industry is exempted, others wish to be exempted also.

One of the worst consequences is the effect on financial institutions. Investments have been made in vessels built in U.S. shipyards on the premise that they will not compete with low cost foreign flag ships—a competition they can't win. If lenders perceive a weakening of resolve for the support of the Jones Act, their attitude towards lending for construction of ships in U.S. yards will change substantially with serious adverse consequences to U.S. domestic operators as well as the shipbuilders. Ultimately bankruptcy of U.S. carriers will ensue. A side effect of that is the requirement for the federal government to make good on ship mortgage guarantees.

We believe, on the basis of the above argument alone, that exemptions to the Jones Act should not be legislated. But, it should be recognized that winning the contract to sell coal to the new power plant to be built in Hawaii is not dependent solely on the cost of ocean transportation. Other considerations will include the grade, quality, and chemical composition of the coal. Those considerations will remain even if Alaska coal were exempted from the Jones Act.

If Alaska coal were exempted, one has to ask what the views of Utah and Wyoming coal producers would be to having Alaska gain an advantage over them.

Hawaii is situated so that United States producers of many products which can also be purchased from foreign sources have the additional expense of ocean shipping to Hawaii. No doubt such producers would like to use foreign-flag ships to make themselves more competitive in the Islands. U.S. automobile manufacturers, for example, would no doubt like to have the same deal. All commodities—general cargo, grain, oil, automobiles, and eastbound pineapple and molasses—shipped between the U.S. mainland and Hawaii have been transported on U.S.-flag ships subject to cabotage laws since 1922, long before Hawaii was a state. Hawaii is strong economically even though subject to the Jones Act. We believe that exempting one state is not in the best interests of the United States.

How much would Alaska gain by S. 2728? On the floor of the Senate on September 14th, Senator Heinz, arguing for a tax incentive to explore for and develop coal resources, stated that for each one million tons of coal produced (in Pennsylvania) 300 mining jobs and 250 jobs in supporting industries would be generated. We understand that the power plant to be built in Hawaii would use up to 500,000 tons per year. If these facts are true, and if Alaska coal producers could win the award, then 275 jobs would be created in Alaska. That's not to be sneezed at, but Crowley Maritime alone employs 4,000 people, about half of whose jobs exist because of the Jones Act.

In summary:

1. The Jones Act is the foundation for the U.S. domestic fleet.
2. The U.S. domestic fleet is essential to provide reliable shipping in national emergencies as well as in peacetime.
3. The existence of the U.S. domestic fleet is seriously threatened by Jones Act exemptions.
4. Exempting the shipment of Alaska coal to Hawaii will not assure that an Alaska coal producer will be the successful bidder for the Hawaii contract.
5. If an Alaska producer did obtain the Hawaii contract the gain for Alaska employment would be relatively small.
6. Exempting Alaska coal shipments is discriminatory vis-a-vis coal and other products shipped between other states and Hawaii.

We therefore urge the Committee not to report out S. 2728.

Thank you for permitting us to express our views. I'll be pleased to try to answer any questions.

Senator **Breaux**. Thank you. Next is Mr. Frank Pecquex.

STATEMENT OF FRANK PECQUEX, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA

Mr. **Pecquex**. Thank you, Mr. Chairman. I would like to submit Mr. Sacco's statement for the record and just make some observations based on the legislation before us.

As one would expect, the Seafarers International Union opposes the legislation as introduced, and we do it for some of the reasons mentioned earlier today. First it is important to our national security. The Jones Act fleet does provide a significant number of vessels that are considered appropriate for strategic sealift capability.

In terms of its economic benefits, the domestic trade provides a significant number of jobs aboard American flag vessels. And from a shipbuilding perspective, I guess the Jones Act trade provides the last bastion for commercial shipbuilding in the United States at the present time.

In opposing this legislation we are looking for the same treatment that all other modes of domestic transportation receive which is protection against foreign competition when moving cargo and passengers between two domestic points.

The proposals that are before us also undermine the basic requirements of the Jones Act (the ownership, the construction, and the citizen manning requirements), without adding anything to domestic service.

Instead of weakening our cabotage laws the industry has sought in the last several years been trying to expand coverage of U.S. operations in the Jones Act and EEZ trades, and we have done fairly well in that regard.

Furthermore, we think adoption of this legislation will have a spillover effect in other trades, and I think that is one of the most important aspects that must be examined.

Some general observations in terms of the movement of cargo are in order. Frequently we hear that there are no American ships in certain trades, and I often wonder if those who have to move goods and American shipping companies that can provide the shipping services have ever sat down to discuss the possibility of reaching an agreement.

These bills are not the only proposals before this Congress. There also is a proposal also to move lumber products from the Pacific Northwest to the Gulf Coast. I think there is a growing tendency for shippers to want more domestic trades opened to foreign shipping services.

All the while the claim is made that there are no American flag vessels. Granted the U.S.-flag bulk fleet is not a large one. But certainly I think that the vessels that are out there are mostly modern ships and could, if a long term were developed in such a fashion to move substantial amounts of coal, or any other product for that matter. I think you would see the American maritime industry respond to it.

The maritime industry, much like nature, abhors a vacuum. Therefore, I am sure that certain operators, if they saw that there was some profit to be made would certainly provide the types of U.S.-flag vessels that are required for these trades.

I know of two American flag bulk carriers that will probably be off an overseas trade route. Presently, they carry coal from the east coast to Germany for use at American military bases in West Germany.

I am sure that the operators of those vessels would probably welcome a new trade that they could get into.

With respect to the cruise ship industry, we, in the American maritime labor community have looked at several initiatives over the years. It, however, has been a difficult one for the maritime industry. I think the the use of foreign flag ships could have a harmful effect caused by a spillover into other domestic cruise trades.

The SIU represents workers aboard cruise vessels, both in the inland water system and in the State of Hawaii. Altogether these ships generate work for over 1,500 SIU members.

What concerns us is the fact that the operators of both American flag vessels and foreign flag vessels are competing in the same market for the same customer: the American tourist. Certainly, a loss of American tourists to foreign cruise liners will have a direct impact on the American flag Hawaiian cruise ships and the Mississippi riverboats.

By passing this legislation we would by giving foreign shipowners increased operational advantages be adding to the list of benefits presently enjoyed by foreign ship operators: foreign construction, lower working and safety standards (which include lower labor costs), and the ability to offer shipboard gambling to its passengers. All of thes factors would present some difficulties in being able to compete.

The SIU does, and I think that most other unions would agree, that we take a different view of the cruise industry. We look at the fact that the foreign flag cruise industry relies substantially on American passengers. In addition most of these companies use, especially in the southern part of the United States, American ports as home ports.

We would suggest that instead of just letting these vessels operate as they do without any regulation, perhaps it is time to require compliance with American labor laws, including OSHA and EEOC and minimum-wage requirements.

Legislation is pending on the House side—and much like the legislation before us today—it will not be taken up or considered this year. It should be considered next Congress because its purpose would be to create American jobs on foreign-flag vessels.

Such legislative action would lower the differential between American-flag operation and foreign-flag operation. I believe precedent exists for the passage of legislation that would require the employment of American citizens on foreign flag-vessels.

We have seen over the years a number of American flag offshore supply boats that have gone overseas for work. In the process they sought and have received relief from certain U.S. manning laws, because they pointed out that foreign governments often require the employment of their nationals aboard U.S.-flag vessels while they operate in their domestic waters. Something like this should also be considered for the foreign-flag cruise industry which relies principally upon domestic ports and American tourists for revenue.

I think the benefits that could be derived from action of this nature are immense. We have a critical maritime manpower shortage that is affecting our sealift capability. And if these U.S. requirements were put in place and resulted in the employment of American seamen we may be able to solve some of our strategic sealift manpower needs at no cost to the government, and perhaps no cost to anybody.

And I would suggest that as we debate this issue in the next Congress, that some of these alternative proposals be considered.

Mr. Chairman, I thank you for your time, and we will be prepared to answer questions.

[The statement follows:]

STATEMENT OF MICHAEL SACCO, PRESIDENT, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

Mr. Chairman, members of the subcommittee: My name is Michael Sacco. I am president of the Seafarers International Union of North America (SIU), AFL-CIO, representing thousands of workers employed in a variety of shipboard and shoreside occupations. I appreciate this opportunity to comment on S. 2728, which would permit coal to be transported on foreign-flag vessels between Alaska and Hawaii, and S. 2729, which would allow foreign-flag vessels to carry passengers among ports in Alaska and between Alaska and Seattle, Washington.

The SIU strongly opposes both of these bills as flagrant violations of the meaning and the intent of the Jones Act.

There is a dangerous tendency to view a longstanding policy with the narrow outlook of obtaining a transitory gain. The Jones Act benefits the nation's security and economic posture as well as hundreds of domestic industries and hundreds of thousands of American workers. Consequently, any proposals to weaken this established and tested long-standing policy must be considered in light of its many benefits and its foundations for being.

For 68 years, the Jones Act has materially contributed to our well-being as a secure nation and as a major economic power. Through shipbuilding, substantial employment in shipping and allied industries, reliable transportation services, increases in tax revenues and decreases in balance-of-payment deficits, the Act has had a profound impact on our economy.

No less important, the Jones Act fleet is an essential national security asset, containing the majority of militarily-useful tankers in the merchant marine. The Shipyard Mobilization Base relies on these vessels for continuing construction and repair projects.

The Jones Act is the most important legislation governing the domestic waterborne commerce of the United States. Yet it is only one chapter in a long history of cabotage laws dating back to 1789. By requiring that domestic waterborne commerce move in vessels built in and registered under the laws of the United States which are owned and crewed by United States citizens, it reflects similar laws restricting domestic cargo to vessels serving under national flags of almost all major maritime nations in the world.

The reasons for supporting the Jones Act have not changed since its passage in 1920: national security and the economic stability of the domestic American maritime industry. Back then, the United States had just emerged from World War I, at the outbreak of which we lacked a viable merchant marine. Following the armistice, a worldwide recession resulted in cheap foreign vessel availability and the consequent erosion of the domestic merchant marine as foreign vessels grabbed both domestic and international trades—much as what is happening today.

The Jones Act ensures U.S. vessel ownership, and with it control of these assets. This reduces our vulnerability to foreign control and guarantees that a nucleus of U.S. tonnage will be available in times of crisis. Its requirement that domestic commerce move in U.S.-flag vessels crewed by American citizens provides a pool of trained, experienced merchant mariners with American allegiance, which was a critical aspect of mobilizing for World War II. It also ensures that wages aboard will accrue to U.S. citizens and contribute to our national economy. Finally, the requirement that Jones Act vessels must be built in American shipyards means a stable demand for U.S. vessels and a shipbuilding base when national emergency requires this critical construction capability.

Our nation needs to be able, in times of emergency, to call upon a ready reserve of vessels and seafarers to transport strategic cargo and personnel. Additionally, a wartime economy would require a modern and efficient domestic fleet to keep our country from becoming hostage to potentially hostile trading partners. The Jones Act serves both of these objectives admirably.

According to the Commission on Merchant Marine and Defense:

> The United States flag tanker fleet is projected to decline dramatically during the next few years. By the year 2000, the projection shows only 97 tankers in the active fleet, of which only 74 will be considered militarily useful. For the global war scenario, shortfalls would occur in the numbers of both coated and uncoated militarily useful tankers to meet the total of the military . . . and economic support . . . requirements. . . . It appears . . . that the shortfalls in a global war would occur both in the NATO and the Pacific theaters. Although Department of Defense policy is to rely on allies to meet requirements in their theaters of operation, the continuing decline in the NATO tanker fleets raises questions about the availability of the allied contribution.

In its recommendations, the commission:

> Finds that the cabotage laws are still needed and that they do contribute significantly to providing the ships and merchant seamen required for our national defense and economic security. The laws also provide ship construction and repair work to help support our shipyard mobilization base. . . . The Administration and Congress should support the existing cabotage laws (referred to as the Jones Act), and should resist any attempts either to weaken or to eliminate them. . . . The commission . . . finds that the costs of the cabotage laws are reasonable in comparison with the economic security that they provide to our domestic trade, and that the laws contribute significantly to providing the maritime resources needed to meet our national defense requirements.

There are three components to the Jones Act that must remain intact if the statute is to continue to have a salutary effect: vessels must be U.S.-built, U.S.-documented and owned, and U.S.-manned. These provisions protect the jobs of hundreds of thousands of seafarers, boatmen, shipyard workers and workers in allied industries, while giving operators a weapon against predatory foreign-flag rates.

To deviate from these provisions is to invite disaster in the domestic trades, and to create an unstable environment that discourages the kind of investment necessary to such a capital-intensive industry. Additionally, allowing foreign-flag vessels into these trades is contrary to what we in maritime have been trying to do to broaden the industry's scope of activities, embrace and pursue new technologies and create more jobs. Finally, such vessels might benefit from foreign subsidies provided by their sponsor countries, with which they could better decimate the unsubsidized Jones Act fleet.

Consequently, waivers to the Jones Act should be granted only as a last recourse in addressing a crisis, and then only if it is necessary to national defense and not threatening to the basic concepts underlying the Act. The legislation being considered here today falls well short of these criteria.

These bills come on the heels of the controversy regarding the Canada-U.S. Free Trade Area agreement, which if left unaltered could have destroyed the Jones Act by freezing it at current levels. So important is the Act to our nation and our industry that the maritime sector readily united and spoke with one voice to deflect this attack on our cabotage laws, and I am confident would do so again if similarly threatened. Clearly, we should be seeking ways to expand the Jones Act trades, not ways to contract them.

This is particularly true of the specific trades affected by the two bills under consideration here today. The coal and maritime industries should get together and develop a viable trade with the objective of expanding utilization of U.S.-flag services, rather than immediately ruling out their use. A legitimate proposal in which an operator could dedicate vessels carrying consistent levels of cargo would reduce costs, resulting in reasonable rates.

As for the passenger trade, there are presently Title XI applications covering two proposed cruise ships. Approval of a Jones Act waiver would inevitably have a chilling effect on these and other projects. Again, our focus should be on expansion, not contraction, of U.S.-flag participation.

Today, three passenger cruise vessels ply the Hawaiian trades, including one that just entered this month. I would respectfully suggest that in the absence of the Jones Act, no operator would risk competing against foreign-flag fleets sailing substandard vessels manned by Third World crews paid substandard wages.

Neither bill's waiver brings anything to the deteriorating maritime situation, yet both would jeopardize the entire nation's security. As such, both bills would establish a dangerous precedent that would violate the security rationale for domestic cabotage.

The SIU has long contended that the Jones Act does not add prohibitive costs between two domestic points. Our position has been confirmed by numerous reports, including a private 1981 study by Robert R. Nathan Associates regarding West Coast lumber and a 1975 Shipbuilders Council of America report.

Additionally, states such as Alaska have benefited directly from the Jones Act by receiving the reliable water borne transportation services their consumer and oil economies requrie. Obviously, state and national needs frequently overlap.

A Jones Act waiver can turn a complaint about a shortage of vessels into a self-fulfilling prophecy. Who in his right mind would invest millions of dollars into a vessel built and manned to U.S. standards for the domestic trade if he thought that there was a reasonably good chance that the rules might get yanked out from under him at any moment?

Mr. Chairman, all American citizens gain from the national security benefits contained in the Jones Act. To threaten those benefits in favor of short-term economic interests would be dangerous and short-sighted, especially in a region with close proximity to the Soviet Union.

Any contemplated waiver of the Jones Act must result in national security benefits that outweigh those contained in the Act. S. 2728 and S. 2729 do not even address this question. Therefore, the SIU urges the subcommittee to reject these bills.

Senator **Breaux**. Thank you, Mr. Pecquex. Next is Mr. Corrado. Welcome back.

STATEMENT OF ERNEST J. CORRADO, PRESIDENT, AMERICAN INSTITUTE OF MERCHANT SHIPPING

Mr. **Corrado**. Thank you very much, Mr. Chairman, for the opportunity to appear before the subcommittee today.

I would like to submit my statement for the record, which sets out the complexity and history of the U.S. cabotage laws, and just make a few remarks.

With respect to S. 2728, there are two U.S.-flag vessels that are available that are coal carriers. One is the *Marine Princess* owned by Marine Transport Lines in New Jersey. It is a 50,000 dead weight ton vessel, about 8 years old. And the other is *Energy De-*

pendence, owned by Keystone Shipping in Philadelphia, a *Panamax*-type vessel. I do not know the age of that vessel.

But both vessels, I understand have their debt substantially reduced. I think they have good arrangements with the unions, and I believe that if the Alaskan coal companies were to talk to these marine companies a reasonable rate could possibly be worked out.

I am not in a position to say sitting here what that rate would be. I do not even know what the foreign flag rate is. But I certainly cannot see amending the Jones Act, destroying it and eroding it, when there is U.S.-flag capacity available in the trade.

As to S. 2729, the Passenger Ship Vessel bill, I would just like to refer to one of the exceptions that Senator Murkowski raised, the so-called Puerto Rican Passenger Ship Act. We were dragooned into that Act about 4 years ago after about 4 years of struggling with that nettle.

And so far as I know it has not been used since, and if it has it has only been used once. So it just sits there, unused. Yet it permits anybody to come along to say, this has succeeded, this has been an exception and we have it. It can be used as a precedent as it has been used here today.

I set out on page seven of my testimony about 14 different commodities or services that, when I was chief counsel of the Merchant Marine Committee, people over the years came up to see me about getting exemptions from the Jones Act.

And I do not see where you draw the line or where you stop, or where coal or passengers is any different from any other commodities. If you do one, how do you stop the others?

It reminds me of Abraham Lincoln's comment during the Civil War regarding the contending Union and Confederate armies, that is, each prays to the same God and each thinks its cause is just.

Well, each commodity that comes in thinks its cause is just and I do not see how you can stop it. Of course, the proof is, we already had a witness in the last panel that wanted to go further and repeal the Jones Act entirely for the State of Alaska. Well, then you have other states coming in with the same request and pretty soon the whole Jones Act is repealed.

One final comment, Mr. Chairman. Our organization represents 20 companies in the U.S. domestic dry and wet bulk trades, and a liner company that has liners in the domestic trades.

The U.S. domestic bulk carriers have invested some $4 billion in this trade. The liner people, you have got any number of companies, SeaLand, TOTE, Matson, Crowley, et cetera, are all in the liner and barge domestic trades, and have invested millions of dollars.

There have been five vessels constructed by Exxon in the last 5 years for the domestic trades. SeaLand has constructed three and Matson now has bids out for another one. All of this is jeopardized by these bills, to say nothing of the fact that there have been no commercial orders in U.S. yards in the last 2 years.

All of this excellent capacity, of course, is jeopardized by eroding and eliminating the Jones Act. And that is what these bills do.

The final thing I would say, Mr. Chairman, is that obviously we are opposed to enactment of these two bills at this time. Frequently today the U.S. cabotage laws were referred to as antiquated and out-of-date.

Well, the first U.S. cabotage law was enacted by the first Continental Congress in 1789, and I do not think it is any more out of date or antiquated than the U.S. Constitution.

Thank you very much, Mr. Chairman, for the opportunity to testify.

[The statement follows:]

STATEMENT OF ERNEST J. CORRADO, PRESIDENT, AMERICAN INSTITUTE OF MERCHANT SHIPPING

Thank you, Mr. Chairman. I am the President of the American Institute of Merchant Shipping (AIMS) which is a national trade association representing 20 U.S.-flag ocean carriers which own or operate approximately nine million deadweight tons of tankers, dry bulk carriers and other oceangoing vessels engaged in the domestic and international trades of the United States. Not all, but most of AIMS' members are engaged exclusively in the domestic trades of the United States. As a consequence, the sanctity of the Jones Act is of paramount importance to our members.

It is important to observe at the outset that there is little difference with respect to cargo and passenger ships regarding the sanctity of the Jones Act—an assault on one sector is an assault on the other sector. An erosion of one sector is an erosion of the other sector. Destruction of Jones Act protections for one sector will result in destruction of Jones Act protections for the other sector. The evidence has been overwhelming that there are those who would eliminate the Jones Act or at least initially make substantial incursions into it. I think it is beyond question that the Jones Act is, and for quite some time, has been an endangered species.

It would be useful to examine the current general maritime area in which the Jones Act exists in order to get the flavor of what is going on in general and how it impacts on our cabotage laws, specifically whether cargo or passenger vessels are involved.

The Administration has eliminated Construction-Differential Subsidy (CDS) on what appears to be a permanent basis. The Congress for the first time, albeit on a temporary one year basis, permitted U.S. vessel operators who are subsidized to build in foreign shipyards and receive Operating-Differential Subsidy (ODS). Congress would not permit them to use their Capital Construction Funds (CCF) for this foreign building, but this temporary foreign building and the subsequent sales of these transactions was a major policy change. The Public Health Service Hospital System was eliminated for the first time in the history of the nation and with it free care for merchant seamen and other maritime beneficiaries. The Administration ended the Federal Government's funding of port maintenance and improvement projects by enactment of user fee legislation in the last Congress. There is an ongoing investigation by the General Accounting Office (GAO) of the Maritime Administration's (MARAD) ODS program. This, coupled with the elimination of the CDS program, leads one to believe that the Administration would dearly love to terminate the ODS program when and if it can figure out how to do so. The Title XI programs has been under attack for the last six years and the Administration has made it clear that it wants Title XI repealed. Another development of great concern to the industry has been the various attempts over the last several years in different parts of the Congress and the Administration to change the Public Law 480 program. Last, and certainly not least, is the ongoing GAO study of the Jones Act which is being undertaken at the request of Senator Stevens, no avid supporter of the Jones Act.

So far the industry has managed to abort these attacks on the Jones Act, but I believe that they will continue and sooner or later may well succeed, which would have an adverse impact on both the bulk, liner, and all but defunct passenger segments of the industry. This is quite a litany of negative developments in which to consider the Jones Act. It seems clear that the maritime industry is under attack and imperiled, and with it our cabotage law.

In 1789 the first continental Congress passed a Tariff Act providing for a 10% reduction in Custom duties on goods imported into the United States in American-flag vessels. Two years later, the Congress enacted a law requiring that all American-flag vessels be built by U.S. citizens in a U.S. yard and be commanded by a citizen of the United States. In 1886 passenger vessels were included in the U.S. cabotage law protections (46 USC 289). This resulted in a very complicated regulatory scheme.

Combining the Passenger Ship Act of 1886 with its numerous rulings, the Customs Service established a three-tiered regulatory system governing the movement of foreign-flag passenger ships between U.S. ports. In the first tier, a foreign-flag vessel which carries passengers between U.S. ports without any intervening stops is in violation of the Passenger Ship Act if a passenger steps ashore at the second port, even temporarily.

In the second tier, if a foreign vessel visits a *nearby* foreign port between the U.S. ports, the passengers may go ashore while the vessel is in the second U.S. coastwise port. If the passenger does not reboard the ship before it leaves, there is a violation of the Passenger Ship Act. Originally, this tier also provided that a foreign passenger ship that has visited a nearby foreign port between two U.S. ports could stay only 24 hours in the second U.S. port before the passengers had to be back aboard and the ship got underway. Citing the lack of a statutory time constraint in the Passenger Ship Act and the economic benefit to ports in Alaska, Florida, and Puerto Rico, the Customs Service amended its regulations on July 31, 1985 so that the 24 hour time constraint was abolished. There was a great deal of support for the change among political and private interests in Alaska, Puerto Rico, and the West Coast states. It was viewed as a tremendous boost to the local economies since passengers would potentially be ashore for longer periods of time.

In the third tier, a foreign-flag passenger vessel may discharge passengers permanently at a second U.S. port if a nonnearby foreign port is visited first. However, if coastwise transportation is the primary object, or purpose, of the voyage in any of these three cases, the discharge will constitute a violation of the Passenger Ship Act. Customs deems the purpose of a voyage as coastwise if one of two situations occur: if the number of U.S. ports visited exceeds the number of foreign ports visited or if the amount of time spent in U.S. ports exceeds the amount of time spent in foreign ports.

From the very beginning as an independent nation, the United States has based its policy of reserving domestic trade to the U.S. domestic merchant fleet on two principles:

1. A strong domestic merchant marine should be promoted and maintained for the economic good of the country; and
2. A strong domestic merchant fleet should be promoted and maintained as an adjunct to national security forces.

These were the principles upon which the early cabotage laws were enacted. These principles have stood inviolate from that time to this. The necessity of and the reasons for a strong domestic merchant fleet have not changed in all these years and there is no reason for them to change today. In fact, there is more reason than ever that all segments of the domestic trades should continue to be reserved to the U.S.-flag fleet.

The history of U.S. water transportation from 1789 to 1920 is replete with manifestations of domestic trade being reserved to U.S.-flag vessels. In 1920, Senator Wesley L. Jones of Washington, Chairman of the Senate Commerce Committee, added an amendment to the Merchant Marine Act of 1920 (Section 27) which prohibited the use of any but American-built, American-owned vessels in the carriage of cargo between points in the United States. Such carriage included the coastwise, intercoastal, and territorial trades, although the applicable statutes speak only of the coastwise trades. The type of ship that may be used in the coastwise or cabotage trades is described clearly in the Vessel Documentation Act of 1980, but the term "coastwise trade" has never been defined by the Congress or a federal agency, even though it has been in use in U.S. law since 1789. This has been, and is, a major problem with our cabotage laws. Section 27 (the Jones Act) together with similar laws covering fishing, passenger and cargo transport, are today commonly known as the "cabotage laws."

Since that time to this, there have been numerous efforts to either eliminate the Jones Act totally or erode it piecemeal. Piecemeal efforts have been made incessantly both by legislative exemption and administrative waiver over the years. Never has the Jones Act been in more danger from piecemeal erosion than today. It is instructive to examine how the Jones Act has been buffeted over the years by incursions, Executive Orders and the constant effort at erosion.

A basic change was affected in the Jones Act in 1950 by the so-called Pelly Amendment which was the Act of December 27, 1950 (64 Stat. 1120) which provided that the Secretary of the Treasury could grant an administrative waiver to a vessel from the Jones Act upon the certification by the Secretary of Defense that such action was necessary in the interest of national defense.

Over the years, we on Capitol Hill were constantly importuned by varying interests to give legislative exemption from the Jones Act for the carriage of passengers in foreign-flag vessels, the carriage in foreign-flag vessels of iron ore, coal, grain, petroleum and petroleum products, liquid natural gas, a variety of fertilizer and ammonium nitrate products, white water rafting equipment, hydrofoils, Finnish ice breakers, and hover craft-air cushion vessels to name a few. In addition, there was a constant clamor for legislative exemption for single vessels such as passenger ships, tugboats, coasting vessels, ferries, deep-sea sport fishing craft, and commercial fishing ships, which had been built abroad, or which had been built in the United States but documented under a foreign flag. Requests were also frequently made for administrative waivers for the purposes mentioned above, either after the attempt at legislative exemption had failed, or as an alternative. However, the necessity of national defense certification by the Secretary of Defense was a great obstacle to the administrative waiver avenue. Most of the time objections by the appropriate Congressional committees thwarted the administrative waiver attempt, as well as failure to meet the national security certification test. Also, it was a rare occasion when the Congress granted a legislative exemption.

I would like to comment briefly on some of the major attempts at legislative and administrative changes in the Jones Act over the years, some of which were granted—most were not.

In 1962 a significant suspension of the Jones Act was permitted for a one year period for the transportation of lumber to Puerto Rico from ports or terminal areas within the United States. This limited suspension was cited as precedent by Representative McCloskey and his staff in their 1981 attempts on Capitol Hill to amend the Maritime Authorization bill to permit a two year exemption from the Jones Act for lumber products to be carried from the northwest to eastern markets of the United States. I think this earlier suspension can be distinguished, however. First, the earlier exemption was not of much help. Secondly, it was for a more limited time period and third, Representative McCloskey's 1981 attempt was much broader in scope.

At any rate, the 1981 hearings held on the northwest lumber exemption severely damaged that initiative. The amendment was in trouble politically before the hearings, but the hearings further weakened the amendment from the substantive standpoint because the proponents made a very weak case and the opponents presented a strong case. For example, it became clear from the hearing record that such an exemption from the Jones Act would not really help the lumber interests in the northwest because of the difference in stumpage prices between Canada and the United States as well as tax costs and other statutory differences. Low Canadian stumpage prices provided the greatest economic advantage to Canadian lumber producers. In addition, it became clear from the hearing record that there were U.S.-flag barge and vessel operators who were ready, willing and able to carry the lumber products in question at an appropriate rate which would permit a reasonable profit. Increases in production in the Eastern United States were the major cause for loss of East and Gulf Coast marketing by Pacific Northwest producers. At the conclusion of the hearings, the foremost Congressional proponents of such an exemption indicated that they no longer favored such an exemption because it was clear that even if it were granted, it would not substantially solve the problem of the northwest lumber interests.

Congressman Ron Wyden (D–OR) unfortunately has restructured this issue by introducing H.R. 1979 on April 7, 1987 which exempts the shipment of forest products from the Pacific Northwest to the East and Gulf Coasts. In light of the hearing record compiled and withdrawal of similar legislation in 1981, it is hard to believe that time and energy will be wasted on hearings on H.R. 1979 in this or any other Congress.

Perhaps the most famous example of the administrative waiver is embodied in the *Sansinena* case. The *Sansinena* was a 66,883 DWT tanker built in the U.S. in 1958, under time charter to a California oil company, owned by a Bermuda-based tanker corporation and registered under the Liberian flag. A request was made for a waiver of coastwise restrictions from the Defense Department under the "national defense" exceptions to the Jones Act and it was rumored at the time that this was at the behest of a certain New York investment broker, who was then in the White House. All the indications were that the Departments of Treasury and Defense were going to grant the waiver and we had scheduled a hearing in the Merchant Marine and Fisheries Committee. Just as the Chairman was about to convene the hearing on this important subject, a message was received from the Secretaries of Treasury and Defense that the application had been withdrawn. That was the end of the affair—but it generated a great deal of comment, controversy and opposition from the maritime community.

Another important aspect of the Jones Act is the so-called Virgin Islands loophole. In the Virgin Islands Organic Act of 1936 it was provided that the President of the United States should have the power over the applicablility to the Virgin Islands of such marine matters as navigation, vessel inspection, and coastwise laws [48 USC 1405(c)(d)) and 46 USC 877].

In accordance with these statutory mandates, President Eisenhower, by Executive Order, extended certain provisions of the Jones Act to the Virgin Islands. However, in this Executive Order, he specifically excepted the application of the coastwise laws of the United States from the Virgin Islands (Executive Order 9170, May 21, 1952). In a 1963 opinion, the Attorney General held that in order to attract foreign shipping to the Virgin Islands and to aid the Island Commerce, the coastwise laws of the United States should not apply to the Virgin Islands (Att. Gen. 42 opinion, August 7, 1963).

Over the years, concurrent with the cargo preference initiatives, there was always the secondary issue of closing the so-called Virgin Islands loophole. Although nothing was ever said publicly, it always seemed that there was a legal problem concerned with the closing of the loophole. A crucial aspect of this question is whether the authority to exempt, mandated by the statutes, was a one-shot or continuing power. If it should be construed that the President's power to exempt was on a one-shot basis, then it would appear that a statute resulting from the legislative process would be necessary to close the loophole. If, on the other hand, it is construed that the power to exempt is in fact continuing, then it would seem that the President could apply the coastwise provisions of the Jones Act to the Virgin Islands by the same means that he used to exempt them, viz., by Executive Order. At any rate, despite this little legalism, bills were frequently introduced over a period of four or five years to close the so-called Virgin Islands exemption to the Jones Act. The Virgin Islands people always made it abundantly clear that any such bill would necessarily have to be restricted only to petroleum and petroleum products since they did not want the application of the Jones Act to the Virgin Islands to seal off their billion dollar foreign-flag passenger ship and tourist business. In recognition of this, subsequent bills were restricted solely to petroleum and petroleum products.

Although numerous bills on this subject were introduced, there was never any further action on them. There was not a specific hearing on this subject although it was discussed peripherally in the consideration of the cargo preference bills and the Maritime Authorization bills. Lack of activity on the Virgin Islands loophole bill was due to lack of success legislatively by the proponents of the cargo preference initiatives. And although the Executive Order avenue was undoubtedly quietly pursued, nothing ever came of it. Despite the sound and fury of the past decade with respect to cargo preference and the Jones Act, the Virgin Islands loophole stands.

In this connection, it must be noted that the Congressional representatives of the non-contiguous areas of Guam, Puerto Rico and Alaska have sporadically attempted to gain exceptions from the U.S. cabotage laws for their areas.

In addition, it must be recalled that at the end of the mark up on the Omnibus Maritime bill in 1980, an attempt was made to permit foreign-flag vessels to carry passengers, petroleum and petroleum products, and agricultural products between the continental U.S. and Puerto Rico.

There have been a number of other controversial attempts to erode the cabotage laws with respect to fishing boats, midbodies, and containers and related equipment. In addition, we have had a struggle over the last seven years in Congress and in the courts over the Department of Transportation rules permitting CDS vessels to operate permanently in the domestic trades in exchange for pay back of construction subsidy. Time does not permit an analysis of these matters but do not forget the so-called Snyder amendment in 1979 which amended the Jones Act to permit a large U.S. container operator with U.S.-flag but foreign built vessels to relay import-export containers in the foreign trades from U.S. port to U.S. port. This provision expired several years ago.

All of these incursions and mutations comprise the history of the U.S. cabotage laws over the last fifteen years and should instill a certain apprehension over the Jones Act protection of U.S.-flag vessels operating in the domestic trades. And this background of attempted attack and erosion does not take into account the possible position of the Administration on the Jones Act.

Certainly the free trader philosophy of many Government officials dovetails with the arguments that the Jones Act is just another protective device to sustain the non-competitive U.S.-flag merchant fleet which is an unnecessary burden on the consumer and the taxpayer. This is what the Heritage Foundation recommended to the Administration.

We must consider the attempts of the Administration over the last four years to change the provisions of the Export Administration Act so it would be free to export Alaskan crude oil and refined products. This very controversy was embodied in the recent trade bill. Worst of all was the Administration's recent attempt to include U.S. cabotage laws in the recently U.S. enacted Canadian Free Trade Agreement (FTA). This would have destroyed the Jones Act and with it the U.S. maritime industry. After much hard work, the maritime industry managed to get this inimical provision excised from the FTA.

In light of the tenor of the testimony set out so far in this document, it should not be surprising that AIMS is opposed to S. 2728 and S. 2729. S. 2728, which would permit foreign-flag vessels to carry coal between the States of Alaska and Hawaii, is not only an erosion of U.S. cabotage laws but is a clear violation of them and would destroy the historic and traditional Jones Act protections which have been afforded to U.S. vessels, U.S. shipyards, and U.S. crews over all these years. With bills such as these being considered by the Congress, can anyone doubt that U.S. cabotage laws are in jeopardy? Can anyone doubt that if U.S. cabotage laws are eliminated, there will shortly not be much of a U.S.-flag fleet?

About 50% of the entire U.S.-flag deep ocean fleet, which consists of approximately 250 vessels operating in the deep draft trades, are protected by the Jones Act. Of these vessels, 134 are tankers in the domestic trades. In addition, there are the liners in the domestic trade fleets of Sea-Land, Puerto Rico Marine Management, Inc., Matson, Tote and Crowley. All of this capacity at no subsidy cost to the taxpayer. Eliminate these vessels and you effectively cripple the U.S.-flag fleet. And if Congressional or Administration policies should make it impossible for these vessels to operate under the U.S.-flag, it follows perforce that the impact on the remainder of the U.S.-flag fleet (international trades) will be immediate and devastating. S. 2728 and S. 2729 will lead to this unfortunate result.

S. 2728 should not be enacted, Mr. Chairman, because it strikes at the very heart of Section 27 of the Merchant Marine Act of 1920, as amended, which prohibits the carriage of merchandise in foreign-built or foreign-flag vessels in the U.S. domestic trades. Why would anyone consider allowing foreign-flag vessels to carry coal between Alaska and Hawaii when U.S.-flag vessels can carry this commodity. I am told that Maritime Transport Lines (MTL) has a panamax class vessel built in the early 80's, the *Marine Princess,* which can carry this commodity in this trade. Also, Keystone Shipping Co. has a coal carrying vessel, the *Energy Dependence,* under the U.S.-flag. In addition, I cannot believe that the Crowley Maritime fleet does not possess carriage capable of carrying this commodity in this trade.

As to S. 2829, several years ago, the so-called Puerto Rico Passenger Vessel legislation was enacted over the strenuous objections of the maritime industry. After thus weakening the U.S. cabotage laws, that incursion has not even been used, perhaps once since enactment.

As mentioned previously, make no mistake about it, the elimination or serious erosion of the Jones Act will result in the destruction of the entire U.S.-flag fleet. As you well know, Mr. Chairman, the various segments of the maritime industry are reeling: major and smaller companies have gone out of business; the tonnage of the companies continues to decrease; the trades are overtonnaged; freight rates are down in many trades; U.S. shipyards have been without a single commercial order for two years; and the entire maritime industry is in disarray from internal bickering, external over-regulation, suicidal and excessive litigation, and lack of a maritime policy and program from any Administration, and no cogent response from that quarter at any time.

Enactment of S. 2728 and S. 2729 would contribute to the eventual collapse of the U.S. maritime industry and escalate the day of its destruction. I do not believe that such an unfortunate circumstance is the desire or objective of the U.S. Congress.

Mr. Chairman, AIMS appreciates the opportunity to appear here today to testify on this basic and crucial subject. I would be happy to answer any questions the Committee may have. Thank you.

Senator **Breaux**. I thank the members of this panel. Mr. Corrado, you have a very extensive statement which really traces the history of the Act and does it in a very informative way, and I think it is also very helpful.

The question I would ask you, knowing your background, is this. I expressed, that the problem with the Jones Act in the beginning, if nothing else is done to encourage ship construction in this country, in this Administration over the last eight years we have seen the elimination the construction differential subsidy, an attack on the ODS program, practical elimination of the Title XI program.

There is not a great deal left to encourage U.S. shipbuilding to meet the requirements of the Jones Act. Do you see a problem of us being able to continue the Jones Act in and of itself without these other activities or programs to encourage the U.S. shipbuilding?

Mr. CORRADO. Well, as you pointed out earlier, Mr. Chairman, these programs are all integrated and the Jones Act is part of the whole.

Of course, as far as shipbuilding is concerned, today the only building U.S. yards have available is Jones Act building. Jones Act trade domestic building.

The other thing that might help would be enactment of ANWR which would provide, would do a lot of good things, but one thing it would do would be to provide building for the U.S. yards. It does four or five other beneficial things, including economic help for the State of Alaska.

But I think what you are getting at, Mr. Chairman, is the heart of the matter. Unless the next administration, whichever party, does something that has not been done since the 1970 Merchant Marine Act, namely come up with some policy and a program to help not only the U.S. domestic fleet but the yards and the international fleet, we are gone, Mr. Chairman.

Our organization has had two or three members go out of business in the last several years. The liner international fleet is down to five or six companies. The yards have no commercial orders, and we do not really have a—we have a policy in section 1 of the 1936 act, but we need a new policy, we need a new program.

The Jones Act cannot stand alone. The maritime industry is integrated. And if you eliminate the Jones Act, then the international trades will go shortly thereafter. And we already know that the yards are dependent upon Jones Act building, at least in part.

That is my answer, Mr. Chairman.

Senator BREAUX. Thank you. Senator Murkowski.

Senator MURKOWSKI. Thank you very much. I think those of you who are associated with the maritime unions will recall the effort that I led at the time on the issue of reflagging the Kuwaiti oil and gas carriers and the effort to try to take the initiative based on the leverage that the United States had at the time, and that leverage was the placement of the U.S. fleet to convoy those tankers in the Persian Gulf.

I felt we had an extraordinary opportunity to simply mandate that Kuwait take some U.S.-flag vessels with U.S. crews. There was a moderate amount of interest from the unions.

But very frankly, I do not think we got our act together in a timely manner. And I was very critical of the Administration because they frankly never thought of the opportunity of using that leverage. But it was an extraordinary opportunity.

We took one ship that was available in Portland, it went on the way. The Kuwaitis had agreed to charter it, but then they found that there were more costs associated with rehabilitating that ship.

I do not remember whether it was the *Maryland* or the *Massachusetts,* but it was one of the vessels.

In any event, from time to time there are opportunities to leverage the utilization of American vessels in such ways; perhaps this was an extreme opportunity, but nevertheless it was an opportunity.

My reason for bringing this to your attention is to show that I am sensitive to the needs of the American Merchant Marine and the continuation of the protection for those companies that have made investments.

I think it is fair to say, as has been pointed out by other witnesses, that the State of Alaska probably supports more Jones Act activity than any other state. The U.S. tanker fleet moves a primary commodity, and that is oil, from Alaska to the West Coast, and on to Panama and through the Panama Canal, and then on the other side. And those interests have to be maintained. We have to continue them.

Now, we have lived with a lot of exemptions to the Jones Act, and I think if you isolate realistically the question of passenger service, you have to recognize, gentlemen, that we have an opportunity here either to get some U.S. jobs or to ignore them. The question of the nose under the camel's tent is a real one. But it is one that we have heard time and time again.

I am sensitive to the fact that there are no U.S. ships being built in the United States today. It is a tragedy, especially when we have shown we are able to compete.

Look at American President Lines internationally, and at Sea-Land. We can compete overseas. It takes some assistance from the Federal Government. But we do not really have our act in order from the standpoint of the government and assistance from the Maritime Administration and any administration, for that matter.

But nevertheless, as we look at this legislation, I would like to think that we can keep it within the framework of structuring, through your input, some alternatives that would be the best of both worlds. Let us address the reality of coal—are we ever going to do anything to bring American-mined coal into the markets of the Pacific?

Because you know as well as I do that any other coal can move in foreign vessels from the United States to Korea or any other nation under our existing free trade stance.

So we have got these dilemmas, and we are going to have an opportunity in the next session of Congress, with the willingness of our chairman, or whoever the chairman might be, depending on the whims of the voters in the——

Senator **Breaux**. I am not leaving.

Senator **Murkowski**. He says he is not leaving and I am not either. But he has the gavel and I do not. So it is for the chairman to address these issues during this interim period of time.

I want to assure you of my sensitivity to your concerns. They are real. But by the same token, I feel it is quite appropriate to express in this forum that Alaskans are concerned about trade and commerce because of our state's uniqueness. We are not like Oklahoma and we all know that.

Mr. Park, my good friend, indicated a figure relative to the annual cost of the Jones Act, and I do not recall the figure but—do you recall it?

Mr. PARK. I said one-half of 1 percent differential on the retail level.

Senator MURKOWSKI. I have the report from the GAO, but on that particular item they say, "Based on our estimate, U.S.-built requirements increase costs of transportation in the Alaska trade by $163 million annually," which is not too far away from our figure.

Nevertheless, we have got a reality here and we have a lot of expertise here. I think that we can do a better job of addressing the concerns, as well as the opportunities, for American shipping.

I don't think it is a one-way street, where we necessarily lose jobs. There is a potential to gain jobs, and there is a potential to have greater participation in certain joint ventures, and perhaps of financing commitments from the U.S. Government which can be more productive for U.S. jobs.

We still maintain the third proviso, which has been of great concern to U.S. operators. Yet, it is another situation that we have lived with for a long time. If we were to introduce a third proviso today, I am sure we would get the same concern being expressed here. But that is more or less a safety valve for Alaska, which simply allows traffic initiating in the United States but moving over the Canadian rail system to move from Canada to Alaska. And, as we have indicated, that has been a modest cut in the domestic transportation network to Alaska, but it has not turned it upside down.

There are economics of efficiency mandated by U.S. operators with U.S. crews, with U.S. ships that operate out of the Pacific Northwest, whether it be Crowley, Foss, TOTE, SeaLand.

So we have maintained this balance. I think we have to consider the fact that the world didn't fall apart because we had the third proviso.

I know a lot of you would like to see it gone. But you can understand from Alaska's point of view the merits of keeping it in there.

As we cite the decline in the U.S. tanker fleet, which is of concern to all of us, we recognize that, currently, the only niche we can compete in is under the Jones Act, which mandates that certain products move in U.S.-flag vessels.

I am very pleased, Mr. Corrado, about your support of ANWR because there is a noticeable lack of total understanding of the national interest in making a determination as to whether there is any oil in ANWR.

There are those who simply assume that it is there. Well, that is far from being a reality.

Mr. Chairman, you have been very generous with your time. I have more questions, but I think I have answered most of my own questions by my own comments. So I do not have very many unspoken thoughts left.

I would like to enter into the record the Alaska cruise ship industry's economic impact study because I think some testimony indicated doubt about the benefits from cruise ship change. Some of it was not too well supported.

I think this will give all those who care to read the record of this hearing an opportunity to address the merits of the study, as we consider the fact that this is going to come up again and we are going to have an opportunity to reflect on it.

I do thank all of the witnesses.

Senator BREAUX. Without objection, that will be made part of the record by reference.

Mr. PECQUEX. Mr. Chairman, may I voice one thought, please?

Senator BREAUX. Certainly.

Mr. PECQUEX. I would like to take the opportunity to thank both you, Mr. Chairman and the Senator from Alaska for your efforts in trying to correct the Kuwaiti tanker manning question.

This, as you will recall, was part of broader legislation that was passed and signed into law earlier this year. It, too, touched upon a very thorny question: whether we should close off the transfer of foreign-built fishing vessels into the Magnuson Act fisheries. The question considered in P.L. 100-239 was similar to this issue. It also points out that the Jones Act is a very thorny issue for a lot of different people.

I would think that there is a willingness on our part to engage in constructive debate and to answer some of the difficult questions before us. In the end, however, differences of opinion may remain and we both may find it necessary to support our basic interests.

Nevertheless, I would think that the maritime industry would probably be willing to consider these issues in the months ahead and see whether or not we can reach some accommodations that do no injustice to either side.

I thank you, Mr. Chairman.

Senator MURKOWSKI. Mr. Chairman, I have just one quick question for my friend, Jack Park.

I think there was a reference that S. 2728 would lose jobs and not be offset by new jobs in the coal industry, and more port activity, railroads, and so forth.

But if U.S. carriers are not involved in the coal trade now, where will the job loss occur?

Mr. PARK. In summarizing, as I did, it misses the buildup to it, which presumes that, with a series of exemptions, ultimately we lose the Jones Act fleet and we lose those jobs.

So I am saying that there are 2,000 jobs in Crowley that——

Senator MURKOWSKI. That potentially could be affected?

Mr. PARK. Yes.

Senator MURKOWSKI. On the other hand, I think what we have done has heightened the understanding that we have a unique situation with regard to coal, and, hopefully, the private sector will be able to figure it out, so that we just don't give up and allow the coal to be purchased from Indonesia without a fighting chance to try to get some of that coal out of Wyoming or someplace else, so that Crowley, Foss, or somebody can carry it.

By not doing something about bringing it up and discussing it, I am convinced that that is where it would go.

Aren't you?

Mr. PARK. Where the work would go—to the foreign flags? Yes. There is no question.

Senator MURKOWSKI. Go to Indonesia and to a foreign vessel and we would all turn our heads and say well, gee, I guess the Hawaiians are buying their coal from Indonesia.

At least we are making an issue of it, and, hopefully, the Hawaiians will feel some twinge of conscience to try to buy American and, hopefully, you folks will sharpen up your pencils. You have the capacity to move coal in barges, I guess, although ordinarily it is done in ships. I don't know.

Mr. PARK. I was interested in the 1.2 million ton capacity of the Alaska coal industry, which I believe Dr. Sims referred to, if I did not misunderstand him. Then it was said that that is the demand for the new power plant in Hawaii.

I had understood that it was about half that. Apparently, the inference is that they want to rely entirely on Hawaii to see their coal production, and yet they are selling to Korea, and they should have extra——

Senator MURKOWSKI. Who wants to rely on them?

Mr. PARK. Well, it was my understanding that Dr. Sims——

Senator MURKOWSKI. Oh. I think he said the port could handle more. Currently to Korea it is about 1.2 million.

Mr. PARK. I could not hear him too clearly. But I had a sense that Hawaii was a major point for sale but there are other places, too.

Senator MURKOWSKI. I can assure you that Alaskan coal operators are looking for any new markets where they can get a contract.

Thank you, Mr. Chairman.

Senator BREAUX. Thank you.

This will conclude our hearing and we thank all the witnesses for being here.

[Whereupon, at 1:20 p.m., the subcommittee adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF PHILIP M. GRILL, VICE PRESIDENT, GOVERNMENT RELATIONS, MATSON NAVIGATION CO., INC.

Mr. Chairman, and Members of the Subcommittee on Merchant Marine: I am Philip M. Grill, Vice President of Matson Navigation Company, Inc. I greatly appreciate the opportunity to present Matson's views on S. 2728, a proposed amendment to section 27 of the Merchant Marine Act, 1920, commonly referred to as the Jones Act, which amendment would permit carriage of Alaskan coal to Hawaii on foreign-flag vessels. The Jones Act is of vital importance to carriers, such as Matson, which serve the domestic offshore (Jones Act) trades as well as the shipping public, especially domestic offshore communities. Matson opposes S. 2728 as violating the integrity and principle of the Jones Act. Matson submits that one exception to the Jones Act, no matter how narrowly drafted, could ultimately lead to many more exceptions, and to the effective repeal of the Act. The Jones Act is an essential part of our national maritime policy which can be preserved if we hold to a policy of "no exceptions".

Enactment of S. 2728 would result in substantial harm to Matson and other carriers serving the domestic offshore trades. Matson has invested almost one-half billion dollars in its service to Hawaii during the past decade. Details of that investment and of Matson's service to Hawaii are discussed below. The commitment to acquire U.S.-built ships, which are far more expensive than equivalent foreign-built tonnage, was made in reliance on the continued applicability of the Jones Act. If an asserted need to employ cheap, foreign-flag tonnage to carry Alaskan coal to Hawaii justifies waiving the Jones Act for such carriage then it also justifies waiving the Jones Act for carriage of coal from the contiguous 48 states to Hawaii. American-built vehicles, many of which are brought to Hawaii on Matson ships, compete in the Hawaiian market with foreign-made vehicles imported directly from the country of manufacture on foreign-flag vessels. If one accepts the rationale offered for S. 2728, then the Jones Act should be waived so that American automakers can use foreign ships to carry vehicles from the U.S. Mainland to Hawaii. A host of other illustrations could be offered to illustrate this point; if economics justifies one exception to the Jones Act it can justify any number.

A policy of piecemeal exceptions to the Jones Act will create a climate of uncertainty which will stifle further investment in U.S.-built ships. The severe depression in the shipping industry has lead to a dramatic rise in Title XI defaults. It is difficult enough at present to attract investment to the U.S. merchant marine. No U.S. carrier could obtain capital for investment in U.S.-built vessels for the domestic offshore trades if investors perceived that cheap, foreign-built tonnage could be used in those trades. I hope that the following discussion will further illustrate how important the Jones Act is to the nation, and to Matson.

The Jones Act requires that the transportation of merchandise between points in the United States, its districts, territories and possessions be in the vessels built in the United States, documented under the laws of the United States and owned by citizens of the United States. It applies to the inland waterways, coastwise and intercoastal trades and to the domestic offshore trades. The Jones Act is the most recently enacted of a long series of laws reserving U.S. domestic commerce to U.S.-built and documented vessels. The first cabotage law was the second piece of legislation enacted by the Congress in 1789. The prohibition against foreign vessels engaging in U.S. domestic commerce was lifted during World War I because the domestic fleet (including Matson ships) was engaged in the war effort. Thus the passage of the Jones Act as part of the Merchant Marine Act, 1920, was simply a restoration of a national policy which has been in effect, with minor gaps, since 1789. Other leading maritime nations, including Australia, Canada, France, Italy and Japan have similar laws.

Each component of the Jones Act is essential in order to maintain an American domestic merchant marine which can provide service to domestic offshore communities in times of peace and serve as a naval auxiliary in wartime. The U.S. documentation requirement provides that U.S.-flag vessels must be crewed by American citizens, thus assuring an available pool of trained mariners with allegiance to the United States to operate merchant vessels in times of national emergency.

The U.S. ownership requirement is also critical to national security, and to the security of domestic offshore communities. This requirement ensures that the ships which provide a lifeline between the offshore communities and the continental United States are under United States control and are not liable to be withdrawn by foreign owners in times of international crises.

The requirement that vessels serving the Jones Act trades be built in U.S. shipyards has both national security and economic implications. This requirement assures the nation of the capability to build technologically-advanced, efficient merchant vessels, thus maintaining a strong shipbuilding base which is essential in the event of a national emergency. The Jones Act also provides the only current source of non-military business for U.S. shipyards. Matson recently announced plans to build a new container-trailer vessel expected to cost over $140,000,000 and is soliciting proposals from U.S. shipyards for the work. The construction of this ship will provide income to the domestic labor force, the shipyard and dozens of allied industries.

The Jones Act has resulted in the domestic offshore trades being served by the finest ocean transportation systems in the world, provided by highly-competitive companies operating unsubsidized vessels and barges of advanced design and technology. The Jones Act carriers are the only healthy segment of an otherwise ailing U.S. merchant marine. The development and maintenance of such services has required and will continue to require investment of enormous sums of money in vessels, equipment and shoreside facilities, however. Those services and the investment needed to maintain them will both be imperiled by threats to the Jones Act, as can be illustrated by reference to Matson and its history.

Matson has served Hawaii continuously since 1882. It currently operates a fleet of six container and container/trailer vessels carrying primarily containerized cargo and vehicles between the U.S. Pacific Coast Ports of Los Angeles, Oakland, Portland and Seattle and Honolulu in frequent, regularly scheduled service. Cargo destined for the Neighbor Islands of Hawaii, Kaui and Maui is transshipped in Honolulu from the line-haul vessels to two container barges and is delivered weekly to four Neighbor Island ports.

Over the past ten years Matson has invested over $473,000,000 in its service to Hawaii. Matson has invested $252,000,000 during this period in vessels, all of which, pursuant to the Jones Act, have been built and rebuilt in the United States, and are U.S.-crewed, U.S.-owned and U.S.-documented. Matson has also spent $107,000,000 in containers, chassis and related equipment and $104,000,000 in terminal facilities and equipment over the same period. Matson has earmarked some $230,000,000 for vessel construction programs over the next fifteen years, in order to ensure continuation of its present high level of service to Hawaii into the next century. The new vessel discussed above is the first step in that program.

The ability of Jones Act carriers such as Matson to be able to finance capital expenditures of such magnitude depends on attracting sufficient investment. There is no doubt that any weakening of the Jones Act, such as proposed by S. 2728, will deter investment in the Jones Act fleet, as well as reducing the value of existing Jones Act vessels. If low-cost, often subsidized foreign-flag tonnage is allowed to enter the Jones Act trades, no prudent investor will be willing to invest in more expensive U.S.-built ships. Further, the value of existing Jones Act ships will be reduced to the level of foreign-built second-hand tonnage, which could engage in the U.S. domestic trades. Equally important, the existence of Jones Act operators would be imperiled since they would be forced to compete with cheap foreign ships manned by low-wage foreign crews.

The carriers such as Matson who provide the present high level of service to America's domestic offshore communities have made the large investments, and taken the risks necessary to provide such service in reliance on the Jones Act. Any weakening of the Jones Act would raise serious doubts as to their ability to continue to provide such service. The public interest as well as the interest of the carriers servicing the domestic offshore trade requires preservation of the Jones Act.

Thank you for the opportunity to present the concerns of Matson Navigation Company, Inc.

STATEMENT OF HON. CHARLES ROYER, MAYOR, SEATTLE, WASHINGTON

Mr. Chairman, I am Charles Royer, Mayor of Seattle, Washington, I am pleased to have the opportunity to submit comments for the record on S. 2729 legislation which proposes to allow foreign-flagged cruise ships to carry passengers between ports in Alaska and Seattle, Washington.

Today the City of Seattle, the Port of Seattle and the greater metropolitan region of Seattle are missing out on important business. We in the western United States have no ability to compete with Vancouver, Canada for a share of the Alaska cruise business. Seattle is missing out on this business because there are no U.S. lines available to serve this market, and because foreign built, flagged and manned vessels are prohibited from providing one-way cruises between the United States and Alaska by the Passenger Services Act.

The Alaska cruise business is very real, very strong and growing. The Alaska cruise industry is currently estimated to represent 10% to 15% of the North American cruise industry. Cruise ship passenger growth in Vancouver, B.C. has quadrupled since 1980; and this year well over 200 northbound cruises will be made from Vancouver. By comparison, this past summer the Port of Seattle homeported only one vessel which had a total of 11 roundtrip sailings to Alaska, and next year there are no major vessels to be homeported in Seattle.

We know what this business would mean to the local economy. Let me list a few statistics from a 1987 report prepared by an independent consultant for the Greater Seattle Chamber of Commerce.

The economic impact of the Alaska cruise market is currently estimated to be in the range of $80 to $100 million, with the largest amount of that ($60 to $70 million) accruing to Vancouver.

Each visit by a cruise vessel to its port of embarkation or debarkation is estimated to generate economic impacts of between $370,000 to $625,000;

Expressed on a per passenger basis, these impacts amount to $575 to $970 per passenger;

The basing of a single cruise vessel over a typical summer in Seattle is estimated to lead to $5 to $10 million in primary spending; 100 to 150 new jobs in the region, and $600,000 in new sales tax receipts;

At least 50% of these new jobs would be in industries directly serving the vessels such as longshoremen.

Today, this lucrative business is mainly going to Vancouver—150 miles to the north.

I am very supportive of the intent of this legislation. I would like to see the ports in the western United States be able to compete with Vancouver for a share of this important business. It means jobs and economic growth—a better balance of payments for the United States as well as Seattle. I would like to work with your Committee in any way I can to move us in the direction of being competitive for this growing cruise industry.

Finally, I would like to say that in spite of the burdens imposed by the Passenger Services Act, the community as a whole benefits from strong cabotage laws. Many domestic waterborne carriers are based in Seattle. They are a vital and important part of our community, and we do not wish to do anything to harm their economic wellbeing. We want to be sensitive to the issues that the unions and local communities have with this legislation. We do not want to harm the cabotage laws. There must be some way we can do this—allow cruiseships to go from Seattle to Alaska and keep the cabotage laws intact.

We would like to work with you next year to draft legislation that will preserve the goals and objectives of the Passenger Services Act and the Jones Act but will also allow us to start competing for the cruise business to Alaska.

STATEMENT OF JOHN J. STOCKER, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA

Mr. Chairman, members of the Subcommittee, as Pesident of the Shipbuilders Council of America, I appreciate the opportunity to express the views of our membership on S. 2728 and S. 2729, two special-interest measures that would legislate exceptions to the Jones Act so that foreign-flag vessels would be permitted to ship coal between Alaska and Hawaii and a foreign-flag passenger service could be set up between Alaskan ports and Seattle, Wash.

The Shipbuilders Council of America is the national trade association representing the United States' principal domestic shipbuilders, ship repair yards, and vendors of materials and services to these industries. Our membership is strongly opposed to any measure that would legislate an exception to the Jones Act, which preserves the U.S. coastal trade to U.S.-built, U.S.-owned, and U.S.-documented vessels. A list of our membership is enclosed.

Exceptions, or threat of exceptions, to a law weaken or undermine that law. This is particularly true of the Jones Act, which during the past few years has been continuously under threat of compromise or repeal. It would take only one exception to set an extremely dangerous precedent that could in fact lead to the total loss of our last remaining commercial market.

During the past six years the commercial shipbuilding industry in this country has been devastated. The major reason for this situation has been extensive, anticompetitive, government intervention in the international marketplace. Forced to compete against subsidized foreign shipyards, U.S. shipbuilders lost their share of the commercial market. Thus, no new oceangoing merchant ships have been constructed by U.S. yards since November 9, 1987, when the last such commercial vessel was delivered to Sea-Land Service, Inc., by Bay Shipbuilding Corporation of Sturgeon Bay, Wisc.

We believe, however, that our country's new emphasis on giving government attention to trade issues and correcting unfair trade practices offers the appropriate environment for a revitalization of the U.S. shipbuilding industry. One indicator of our ability to be competitive is the labor-rate base of U.S. shipyard workers. A recently-completed analysis on shipyard manpower and labor issues shows that the labor rates for U.S. shipyards are below that of seven European countries, four of which were among the top-ten ship-producing nations of the free world as of June 30, 1988.

The Shipbuilders Council of America has developed a commercial shipyard recovery plan, the objective of which is to establish the U.S. shipbuilding industry as a competitive force in the world market as well as to preserve the shipbuilding mobilization base required for our national defense. Retaining the integrity of the Jones Act is a prerequisite to achieving this objective.

We are aware that considerable Jones Act tonnage will soon require replacement. Currently, 40 percent of the tankers engaged in Jones Act trade are over 20 years old. By 1994, 94 tankers of 4.5 million grt will be over 20 years old. We believe that operators have delayed commitments to replace their aging inventories because of uncertainties regarding the law, stemming from efforts to bend the rules on barge construction, export of domestically-produced oil, and repayment of construction subsidies for ships built originally for the foreign trade. Replacement ships for the domestic trades are real potential markets for U.S. yards. A reaffirmation of the Jones Act is needed, not waivers that further erode its intent.

STATEMENT OF GEORGE J. RYAN, PRESIDENT, LAKE CARRIERS' ASSOCIATION

Lake Carriers' Association represents more than 95 percent of the U.S.-flag shipowners serving the domestic trade on the Great Lakes. We strongly oppose any changes in the Cabotage Laws of the United States. Specifically, we ask the Senate to vote against an exemption for the carriage of coal between Alaska and Hawaii and against an exemption permitting foreign-flag vessels carrying passengers between Alaska and the lower 48 states.

The costs of doing business in the United States, including Alaska, are affected by national objectives including national defense and our cherished high American standard of living. American enterprise is goverened by U.S. laws concerned with the safety of its employees, the protection of the environment, and the payment of taxes. The cost of doing business in any enterprise in the United States is affected by these considerations. It is patently ludicrous to think that any business venture such as the carriage of coal or passengers should be given an advantage over other business ventures by changing the gound rules for some and not for all.

In the transportation field, we know how inadequate air transportation is between many of our nation's cities and states. There is woefully inadequate bus and rail transportation as well. An argument can be made that these modes of transportation would provide expanded service for passengers and freight by a simple change of the ground rules to allow foreign corporations operating under foreign safety, construction, and environmental standards and, of course, employing low wage scale, foreign citizens. One might argue that this "one world" approach would be in the interest of free trade and that all American citizens would benefit because of the lower cost of inter- and intra-state transportation.

Such a ground rule change could be extended to manufacturing or mining industries we have lost to overseas competition. If Congress authorized the importing of enclaves of foreign workers to work at low wages with foreign safety and environmental standards, some industries in the United States would benefit—but at what cost.

This logically extended scenario is never suggested, since those who would do so would be laughed out of the forum. Nonetheless, there are frequent calls for modification of the Cabotage Laws governing water transportation between the states. Perhaps it has something to do with the land-based mentality of many Americans. We do not look upon the waters as an essential element of our nation for commerce and defense. Some must believe that as long as the vessel floats and is only tenuously tied to the land by wire ropes, it is really a foreign enclave to be cast from our vision as the ship passes over the horizon. Fortunately, this shortsighted view has never been accepted by the Congress of the United States and thus, the Cabotage Laws wisely remain intact.

We urge the Senate of the United States to strongly oppose this effort to amend the Jones Act, an essential foundation of our nation's maritime power and essential to our national defense.

STATEMENT ON BEHALF OF TOTEM OCEAN TRAILER EXPRESS, INC.

Mr. Chairman and members of the subcommittee, I am Robert B. McMillen, President and Chief Executive Officer of Totem Ocean Trailer Express, Inc. (T.O.T.E.). I appreciate the opportunity to submit this statement to the Subcommittee concerning S. 2728 and S. 2729.

Totem Ocean Trailer Express is a nonsubsidized domestic ocean carrier operating in the liner service between Tacoma, Washington and Anchorage, Alaska, with two modern roll-on, roll-off trailerships. T.O.T.E. is locally owned and controlled in the Puget Sound area and is committed solely to the Alaska trade. T.O.T.E. has an investment in excess of $130,000,000 in vessels, trailers and terminal operating equipment and is responsible for the direct employment of over 400 persons in Alaska and the Lower 48. At full capacity, our vessels transport 380 highway trailers and 130 vehicles per voyage and we offer twice-weekly sailings to the Alaska railbelt through the Port of Anchorage.

S. 2728: EXEMPTIONS FOR COAL

As a U.S. flag water carrier, employing U.S. crews on American vessels, T.O.T.E. vigorously supports the Jones Act (Merchant Marine Act of 1920) as the foundation of an effective domestic merchant marine. S. 2728 is a frontal attack on the Jones Act and in our opinion there is nothing in the present situation to warrant Congress considering an exemption for the possible movement of coal from Alaska to Hawaii.

At present there is only one producing coal mine in Alaska. Contact with representatives of that mine have indicated that any action on exemptive legislation is in the best case premature. It is not possible at this time for American flag carriers, either utilizing ships or tugs and barges, to offer rates for the service in question because the shipper is not presently able to provide volume or frequency information on prospective coal shipments or to give any of the data necessary to develop proposed transportation rates. It is therefore not possible to calculate comparative shipping cost differentials between U.S. and foreign flag carriers and determine the degree of competitive impediments, if any, that the Jones Act presents.

Many factors affect the competitiveness of Alaska coal in an international market. Alaska coal has not been successful in competing in the international market where there are no reservations against foreign flag shipping service. The existing Korean coal supply contract was negotiated in the face of very high energy costs in the late 1970's and, by the reported admission of the mine operators, is not equal to foreign supply sources. More important factors to Alaska's coal competitiveness are its very high moisture content, high Alaskan labor rates, subsidized foreign suppliers and the higher cost of U.S. environmental and worker safety regulations. In the case of Canada, there is also an exchange rate differential in favor of Canadian coal.

S. 2728 only addresses the shipping aspect, which at present is not possible to evaluate. This does not justify a special exemption from the Jones Act.

Absent evidence that transportation rate differentials are the primary determinants of the supply source, the shipping sector should not be singled out as the area to seek relief. The Jones Act has functioned well as the cornerstone of U.S. cabotage laws for almost seventy years and should not be altered without overriding justification.

T.O.T.E. is opposed to passage of S. 2728 at this time for the reasons stated. It may very well be that U.S. flag service can be offered at reasonable rates. If legislation is necessary to improve the competitive position of Alaska coal, all factors must be considered, not just shipping rates.

S. 2729: EXEMPTIONS FOR PASSENGERS

Like the Jones Act, the Passenger Service Act has been a pillar of domestic maritime legislation for decades. It was founded on many of the same precepts as the Jones Act and it is T.O.T.E.'s policy to resist incursions against these long standing statutes. The allowance of exemptions in this area could set unfortunate precedents for further changes in the laws governing domestic waterborne commerce which would have long-term detrimental effects to T.O.T.E. and other U.S. offshore domestic carriers.

We recognize that there is some community support for the legislation, and if Congress considers this limited exemption then it should also seek ways to strengthen the Jones Act. For example, Alaska's domestic freight carriers operate under threat of an existing exemption to the Jones Act in the form of the third proviso. This allows the use of foreign vessels with foreign crews to provide service in domestic commerce through Canadian ports, under through rates moving in part over Canadian railroads. In 1982 legislation to eliminate this loophole passed the House of Representatives, but not the Senate. The combination of similar legislation with the cruise ship exemption sought by S. 2729 could possibly receive the support of the domestic U.S. Merchant Marine.

Thank you for the opportunity to present our views on this legislation.

STATEMENT OF CAPT. ROBERT J. LOWEN, PRESIDENT, INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS, ILA, AFL-CIO.

Mr. Chairman and Members of the Subcommittee: My name is Robert J. Lowen. I am President of the International Organization of Masters, Mates and Pilots, ILA, AFL-CIO. The Masters, Mates and Pilots represents more tahn 10,000 active professional mariners employed worldwide in various seagoing and shoreside capacities. We also represent the crew of the SS *Monterey,* the newest United States-flag passenger cruise ship.

We appreciate the opportunity to present our views on S. 2728 and S. 2729, legislation which would waive existing requirements governing the transportation of passengers and cargo in the domestic commerce of the United States. S. 2728 would allow foreign-flag vessels greater than 1,000 deadweight tons to carry passengers between the port of Seattle and ports in Alaska, and between ports within the state of Alaska. S. 2729 would allow foreign vessels to transport coal between the states of Alaska and Hawaii.

Mr. Chairman, the Masters, Mates and Pilots opposes the enactment of S. 2728 and S. 2729.

We believe, and have so testified on numerous occasions, that our domestic shipping statutes comprise one of the most important bodies of law for the American maritime industry. The full enforcement and implementation of these statutes offer one of the few remaining programs for the construction of commercial vessels in United States shipyards as well as for the operation of vessels under the American flag crewed by American maritime personnel. We are especially pleased to support the views of the Commission on Merchant Marine and Defense calling for the preservation enforcement and strengthening of our cabotage laws.

We have also expressed on numerous occasions our opposition to waivers of our coastwise shipping laws absent an overriding national defense consideration. In our opinion, there is no such national defense consideration present to warrant the enactment of either of these waiver proposals. As an alternative, we would suggest that rather than proceeding with economic waivers of the coastwise shipping laws, Congress instead consider ways to help the maritime industry fully achieve the goals and objectives of these laws.

Few areas offer as much potential for the United States maritime industry as the American cruise industry. Since 1983, the number of cruise passengers has been increasing at a rate of approximately 15 percent per year. The total number of passengers embarking at nine major U.S. ports rose from 1.1 million in 1981 to more than 2.7 million in 1987, an increase of approximately 150 percent over a six-year period.

As this Committee is all to aware, and as noted by the sponsors and supporters of S. 2728, this increasing and profitable business has been dominated if not monopolized by foreign-flag vessel operations. Most of these vessels have been home ported in the United States, earning virtually all their income from American tourists.

Recent industry reports state that there are thirty-five cruise lines operating approximately 100 foreign flag cruise vessels out of United States ports.

The Masters, Mates and Pilots has consistently supported the construction of cruise vessels in the United States for operation under the American flag in both the domestic and foreign cruise trades, and we will continue to do everything in our power to achieve this objective. In fact, as this Committee knows, our Union took an unprecedented step in 1980 to save an American cruise ship for the United States merchant marine.

At that time, the U.S.-built vessel SS *Monterey* had been out of service and laid-up for two years. The Masters, Mates and Pilots saw this ship as an opportunity for American shipyards, American shipping management and American shipboard personnel to create a competitive cruise ship operation. To do so, we took the step of reaching into our own treasury to purchase the *Monterey*. I am pleased to say that today this ship is sailing under the American flag and with an American crew.

Our experience with the project to return the SS *Monterey* to active service in the domestic cruise trade clearly illustrated to us that disincentives to the development of an American cruise fleet exist, and foreign vessels enjoy competitive advantages under United States law and regulations. We are convinced that with the right mix of government policies and support we can develop an American flag cruise fleet comprised of vessels which can also fulfill military support roles during war or national emergency.

As a first step, we believe restrictions on the availability of Federal Title XI loan guarantee commitments should be lifted to encourage the construction of American built cruise ships. This program is very important as potential American vessel operators try to compensate for the difference in cost between American built and foreing built ships and to obtain private sector financing for their projects.

It is also critical that existing Bureau of Customs regulations which essentially allow a foreign cruise vessel to operate between American ports should be changed. Under a 1985 Customs regulation, a foreign vessel is not in violation of U.S. domestic shipping restrictions if it remains in an American port for more than twenty-four hours. This allows a foreign vessel to offer an itinerary which includes stops in numerous American ports as the main component of its voyage, merely embarking passengers at a nearly foreign port.

Title 46 United States Code section 289 provides that no foreign vessel shall transport passengers between ports or places in the United States either directly or by way of a foreign port. Prior to 1985, Customs regulations (19 C.F.R. 480a) provided that a foreign vessel which takes on passengers in a United States port will be in violation of the coastwise laws if during the course of the voyage the vessel remains in another coastwise port for more than twenty-four hours. Under the 1985 change, a foreign vessel whose passengers go ashore at a U.S. port where the vessel remains for more than twenty-four hours is not in violation.

We understand the intent behind the rules change, namely to assist certain American ports to compete with nearby foreign ports for tourist business. It was an attempt to assist the economy of these ports, not, according to Customs, "to erode the statutory protection given to American vessels engaged solely in the domestic trade."

Mr. Chairman, despite the intent of the Customs service, we believe its existing regulations are adversely affecting the operation and growth of the American flag passenger cruise fleet. At a minimum, we believe the intent of the coastwise shipping laws is being violated as more and more foreign cruise vessels offer what are essentially domestic trade itineraries. Let me give just two examples:

On June 1, 1988, Sitmar Cruises advertised a cruise on one of its vessels, the Liberian-flag *Fairwind*, to take American passengers on a "Colonial America Celebration." According to the company's advertisement, passengers would embark in Nassau, with stops in Savannah, Charleston, Baltimore (for one and one-half days), Boston and New York (two nights).

More recently, Royal Cruise Line has announced an 11-day "Pacific Hawaiian Odyssey" on its Greek-flag vessel, *Crown Odyssey*. According to this company's brochure, passengers will fly from San Diego to Ensenada, Mexico; cruise to Kahului, Maui; to Lahaina, Maui; to Nawiliwili, Kauai; and to Honolulu. From Honolulu, passengers will be flown back to the mainland. This cruise is being advertised for January 18–28, 1989.

As noted previously, when Customs finalized its rule changes it noted that the primary purpose was to enhance the economy of American ports, not to impede the growth of an American cruise fleet. The Bureau further stated that "if it is ever shown that there are U.S.-flag, U.S.-built vessels capable of successful economic competition with foreign vessels in voyages touching nearby foreign and U.S. ports, and that such U.S.-flag, U.S.-built vessels are in fact hurt by provisions of the Customs regulations, we will immediately reconsider the regulations."

In fact, Customs clearly indicated that corrective action would be virtually immediate, concluding its 1985 comments by noting that "if at some future date it was actually shown that U.S.-flag, U.S.-built vessels were hurt by the amendment and Customs did not take remedial steps, the Congress would quickly take appropriate action."

We believe the time for remedial action is here. The advertisement by Royal Cruise Line is particularly disturbing because a foreign flag vessel will be competing with the American ships operating in Hawaii. Under existing Customs regulations, no consideration is given to the primary purpose of the voyage to determine if it is in reality coastwise transportation.

Presently, too much reliance is placed on the terms "embarking" and "disembarking." Reliance on these terms alone totally ignores the concept of recreational cruises where passengers return to their original port of departure. It means that a violation will occur only if a passenger embarked on a foreign vessel at one coastwise port and disembarked from the foreign vessel at a different coastwise port.

Today, Customs regulations are being interpreted to mean that a single foreign port call will sanitize what is essentially a domestic voyage. A single stop at a foreign port by a foreign cruise ship allows the vessel to make numerous stops at American coastwise ports at which passengers could disembark for an unrestricted amount of time without violating the law.

Allowing a foreign flag vessel to only touch briefly at a foreign port enables it to offer an itinerary virtually identical to that offered by coastwise qualified vessels. This denies American-built, American-flag and American-manned vessels the protection intended by our laws. Royal Cruise Line is soliciting passengers for a cruise of the Hawaiian Islands. By starting its cruise in Mexico, it is able to offer a cruise on a foreign vessel to the same ports-of-call as the *Monterey:* Honolulu, Kauai and Maui.

There should be little doubt as to what the real purpose is of Royal Cruise Lines' "Pacific Hawaiian Odyssey." It is to cruise the Hawaiian Islands with a foreign vessel. As long as the rules and regulations governing coastwise shipping fail to reflect the realities of the cruise industry, it will be extremely difficult for the American cruise fleet—which must comply with all United States standards for construction and operation in order to operate in the coastwise trade—to grow.

Additionally, there is a discrimination under American law pertaining to shipboard gambling which further enhances the operation of foreign cruise vessels. Essentially, since 1950, it has been illegal for an American flag vessel, but not for a foreign cruise vessel, to operate "gambling devices" such as slot machines and roulette wheels. This gives foreign flag cruise lines a marketing tool not available to American operators competing for the same American tourist and his dollars. In addition, this fact coupled with a Customs determination allowing a foreign vessel to leave from and return to the same American port has led directly to the foreign flag-cruise-to-nowhere fleet, a fleet of "floating casinos" operating from American ports.

We firmly believe that these impediments to the expansion of a United States-flag cruise vessel fleet in the foreign and domestic passenger trades should be eliminated. Existing regulations which allow foreign cruise vessels to spend more than twenty-four hours in a United States port and which allow foreign vessels to merely touch a foreign port to satisfy domestic shipping restrictions are among those which should be changed immediately. It is difficult enough for an American operator to comply with all the unique and stringent rules and regulations governing domestic vessel operations without also having to confront foreign vessel operations which make a mockery of our cabotage laws.

Mr. Chairman, with respect to S. 2729, relating to the carriage of coal, we do not support a waiver of the Jones Act in order to enable foreign vessels to operate in this trade. We are not aware that this market presently exists and we believe that if such a market develops, American Jones Act-operators will be able to transport this cargo efficiently and economically as they continue to do in other domestic trades.

Mr. Chairman, your support for the American merchant marine is deeply appreciated by the Masters, Mates and Pilots. We are indebted to this Subcommittee and the Committee on Commerce, Science and Transportation for your consistent efforts over the years to strengthen the American maritine industry. We look forward to working with you to achieve this goal.

STATEMENT OF JAMES L. HENRY, PRESIDENT, TRANSPORTATION INSTITUTE

Mr. Chairman, Members of the Subcommittee: I am James L. Henry, president of the Transportation Institute, a trade association representing over 140 U.S.-flag vessel operators engaged in the nation's foreign and domestic shipping trades, including Alaska. Since a majority of these companies are engaged in transporting cargoes and passengers in the U.S. domestic shipping trades, enactment of S. 2728 and S. 2729 would have a major impact on them and could dictate the success or failure of present and future operations.

Hence, the Transportation Institute must express its strong opposition to S. 2728 and S. 2729, measures which would waive the provisions of the Jones Act for the shipment of coal from Alaska to Hawaii using foreign-flag vessels and the Passenger Act of 1886 for the carriage of passengers to Seattle and anywhere in Alaska on foreign-flag vessels.

The Jones Act is by far the most important law governing domestic waterborne commerce today. In fact, the Act is the lifeblood of U.S.-flag carriers engaged in the domestic trades. In 1920, due to earlier experiences and the inadequate condition of the merchant fleet prior to World War I and the surplus war-built fleet after the War, Congress and the nation became aware of the need for stronger laws to protect the U.S. fleet and especially the growing domestic trades. The vehicle chosen was the Merchant Marine Act of 1920, a law that was aimed at correcting many of the nation's maritime problems. In the Senate, it was amended to include a strong cabotage law that has become known by the name of its author, Senator Wesley Jones.

As stated in its preamble, the Act was established to maintain a merchant marine ". . . sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States." In amending the Merchant Marine Act of 1920, Senator Jones was able to achieve his goal of strengthening and protecting the U.S. merchant marine. He crafted language providing that "no merchandise shall be transported by water or by land and water on penalty of forfeiture thereof between points in the United States, including districts, territories and the possessions thereof embraced within the coastwise laws, either directly or via a foreign port, in any other vessel than a vessel built in and documented under the laws of the United States, . . . owned by . . . citizens of the United States. . . ."

As Subcommittee members are aware, the U.S. merchant fleet has dropped considerably since World War II. The severe loss of U.S.-flag deep-draft liners and tankers has occurred to the fleet of vessels engaged in the foreign trades as a result of various maritime policies of foreign governments, including direct and indirect subsidies, and preferential tax treatment. As a result of the near extinction of the U.S.-flag fleet from the foreign trades, the Jones Act is even more important to the continued existence of a U.S.-flag fleet as it is one of the few remaining measures of support for an industry vital to our nation's economy and security.

The Jones Act has fostered a stable domestic transportation market which allows for rational investment decisions regarding capital equipment, healthy competition, and provides shippers with safe and reliable service. One need only look as far as the fleet of over 10,000 tugboats, towboats, and deep-draft vessels engaged in domestic commerce for evidence of the contribution of the Jones Act to both the transportation system and to national defense.

Since the Jones Act applies to ocean shipping as well as to the non-contiguous areas, to coastal shipping, to inland water operations, and to the Great Lakes, the impact of any change or waiver in the Act would extend into every port of the nation and every city and town on all its navigable waters and tributaries. In fact, U.S.-flag shipping, operated under the Jones Act, is the glue that binds the non-contiguous areas' economies to the United States. Without the Jones Act, the U.S. domestic trades would likely be dominated by foreign-flag vessels built abroad, manned by foreign workers, and operated by companies that pay no U.S. taxes and owe no allegiance to the United States. In fact, if foreign-flag operations were allowed to participate in the movement of commercial cargoes or passengers from point to point within the boundaries of the United States, American shipping would ultimately be driven out of this trade.

The importance of the Jones Act to the past development of the domestic fleet is clear. Its provisions will continue to be critical to the future health and growth of the domestic maritime industry and to the economies of the port cities throughout the nation. Any alteration to longstanding maritime policy threatens to dismantle our shipyards and ship repair facilities, the inland tug and barge industry, the Great Lakes fleet, the offshore oil and gas service industry and both our international and domestic maritime fleets.

Waivers to the Jones Act skirt compliance with maritime policy, and instead create a loss of jobs in the economy, a decrease in tax receipts by the federal government (resulting in further increases in the federal deficit), and an increase in our balance of payments deficit. Furthermore, by relaxing our maritime posture with waivers of the Jones Act, we would be acquiescing our strong national defense. By permitting our domestic trade to be taken over by foreign interests, we would be at their mercy should they decide to abandon our service. Most important from a defense standpoint would be the loss of ships which now constitute a ready reserve in the event of an emergency which would require the movement of troops and supplies by sea.

Our nation is increasingly dependent upon waterborne commerce, both along its coasts and between inland ports served by our rivers and canals. The country's non-contiguous areas, the states of Alaska and Hawaii and the Commonwealth of Puerto Rico, are particularly dependent upon seaborne shipping to maintain and increase their economic well-being and to maintain their commercial ties with the mainland United States.

Opening up trade routes to foreign shipping interests would have a crippling effect upon the American merchant fleet, and would carry with it the potential for ecomomic dependence upon foreign governments that would be extremely dangerous—both economically and militarily—to the nation, which includes the vital non-contiguous areas.

While we recognize that the establishment of efficient and inexpensive transportation between the non-contiguous areas and the rest of the U.S. is vital, it should not be done in a way that would surely undermine our longstanding maritime policy. We believe that once the Jones Act is opened up for any purpose, it is logical to expect that other organizations and interests will push for waivers of the Jones Act as well. Therefore, in lieu of the Jones Act exemptions suggested in S. 2728 and S. 2729, alternative approaches should be developed.

Recently the State of Hawaii instituted more stringent air quality regulations, which gives Alaska clean-burning subbituminous coal an advantage over other coal. Good business sense dictates that most U.S. domestic transportation carriers would enjoy the opportunity to expand their business through new markets. Surely, if given the opportunity, U.S. vessel operators would give serious consideration to the possibility of entering this new market. Instead of offering this trade to foreign-flag competitors, we recommend that representatives of the Alaska coal industry, the utilities in Hawaii (who would burn the coal) and the U.S.-flag maritime industry develop a strategy in which all parties would benefit from this new market.

S. 2729, requesting a Jones Act waiver for passenger vessels between Seattle and ports in Alaska, is based upon the assertion that there are no large passenger cruise liners. This is, in fact, not the case. There are currently two ocean-going passenger vessels operating under the U.S. flag and a third vessel will begin regular service this month. In addition, the Maritime Administration has under consideration a Title XI loan guarantee application for the construction of two new passenger vessels. The 1980's have witnessed a slight rebirth of the U.S.-flag passenger vessel fleet. Although this has been a modest growth, it is a start. Opening the door to foreign vessel operators who already have a command of the lucrative cruise industry would only frustrate future opportunities to expand the U.S. passenger fleet.

Attacks on the Jones Act of any kind have an onerous significance. Not only do they jeopardize the future of the domestic U.S.-flag fleet, but they force the maritime industry into a defensive posture which diverts our attention and resources away from positive policy initiatives which we might otherwise pursue. The future of the Jones Act depends on the fortitude of the Congress in its support of the U.S. merchant marine and its contribution to national security. We, as a nation, derive tremendous benefit from a strong merchant fleet and the Jones Act provides the base for the fleet. Any effort to subvert the intent of the Jones Act must be weighed against these benefits. It quickly becomes evident that the United States cannot afford to allow its cabotage to be overrun with foreign vessels. It is, therefore, imperative that the Jones Act remain intact and in force.

The Transportation Institute firmly believes that the Jones Act requirement that all shipping in the domestic trades be on U.S.-flag ships must be preserved. While we recognize that the sponsor of S. 2728 and S. 2729 is deeply committed to legislation beneficial to the citizens and industries of Alaska, we believe that passage of these bills would prove detrimental to the U.S. maritime industry and, in turn, to the nation as a whole. Therefore, the Transportation Institute respectfully requests the Subcommittee Members to reject these measures.

STATEMENT OF JIM JOHNSON, FOR THE PUGET SOUND CRUISESHIP ALLIANCE

Mr. Chairman, my name is Jim Johnson and I am Chairman of the Puget Sound Cruiseship Alliance. The Alliance is comprised of various segments of the Greater Seattle business community. Its purpose is to increase cruise business in the Puget Sound. This includes advocating for a change in Federal law which will permit the Puget Sound Ports to compete with Canadian ports for the Alaska summer cruise trade. It is our belief that millions of dollars in economic benefits will spill over into the State of Washington as a result of increases cruiseship activity through Washington Ports.

The Passenger Ship Act (PSA) currently prohibits the carriage of passengers on foreign-flag cruiseships from ports in the contiguous U.S. to Alaskan ports as part of a one-way voyage. The current U.S. Customs Service interpretation of the PSA permit foreign-flag vessels to conduct round-trip voyages out of the Port of Seattle, and even allows for temporary departures from the vessel at Alaskan ports. Unfortunately, the trend in the summer cruise market has shifted from round-trip voyages to a preference for one-way voyages. The most popular itineraries combine a cruise through the waters of Southeast and/or Southcentral Alaska, with a subsequent inland tour of Alaska or the Canadian Yukon territory. In an effort to stay competitive, the cruise companies have shifted toward this seven day, one-way, cruise/tour pattern.

The developments in the cruise market have effectively inhibited Seattle's ability to attract cruise business. Seattle will be able to compete in the one-way voyage traffic only if the PSA is amended to permit foreign-flag cruise vessels to homeport at the Port of Seattle for purpose of offering this service.

The City of Seattle and the Greater Seattle Chamber of Commerce commissioned the Arthur Young Company to conduct an economic impact study to determine what the economic impact would be and what would be necessary to bring cruise business to Seattle. One issue was whether the economic benefits to the community justified an initiative to amend th PSA to permit one-way voyages by foreign-flag vessels. Arthur Young concluded that the cruise industry has a significant direct economic impact on Seattle. The study concluded that if the restrictions imposed by the PSA were lifted Seattle initially stood to gain as much as $11 million per year from the *growth* in the Alaska cruise trade. We believe that the actual economic impact would actually be greater in the long-term as the Port of Seattle develops the facilities to handle greater cruise traffic. Those facilities will never be developed if we are not allowed to compete with the Canadians for this business.

An economic benefit of this magnitude would mean hundreds of jobs for the Seattle community. Dockside labor would be the biggest immediate beneficiary of increased cruise traffic. Other beneficiaries would be local businesses which supply food, fuel, and other supplies to the cruise companies. It is highly likely that tourists would make a short stay in Seattle a part of their vacation itinerary, thus providing the Seattle businesses with more opportunities to market the city as a tourist center. The Port of Seattle would of course benefit from a stronger demand for its dock space and related support services. The addition of a cruise fleet would provide the Port with an opportunity to improve and expand its dock facilities.

Easing the restrictions of the PSA to permit Seattle to compete for cruise traffic will not adversely impact one single U.S. entity, nor will it decrease the job opportunities for maritime labor. The Alaska trade is currently dominated by companies using foreign-built vessels manned with foreign labor. Vancouver, British Columbia still receives the lion's share of the economic benefit attributable to supporting this fleet. Efforts have been made in the past to try and stimulate U.S. participation in the cruise trade. These efforts have failed. We know of no interest on the part of U.S. companies to engage in the Alaska trade in the near future. Seattle would love to be the primary homeport of a thriving domestic cruise fleet, but we are forced to wait for the dream to become the reality. In the meantime, the Canadians get richer and the overall U.S. trade deficit continues to grow.

The Puget Sound Cruiseship Alliance has carefully considered S. 2729, as introduced by Senator Murkowski. We applaud the Senator's desire to create an environment which would permit ports in Alaska and the Port of Seattle to compete with Vancouver. The Alliance does believe that the approach taken by S. 2729 needs some fine tuning. Today's testimony is being submitted in conjunction with the testimony of Henry Aronson, Commission President of the Port of Seattle. Mr. Aronson has highlighted some of the issues raised by S. 2729, and the alliance supports his recommendations.

In spite of the burdens imposed on Seattle by the PSA, the community as a whole benefits from strong cabotage laws. Many domestic waterborne carriers are based in

Seattle. They are a vital and important part of our community, and the Alliance does not wish to do anything to harm their economic wellbeing. We do believe that legislation can be drafted in a manner which will preserve the goals and objectives of both the Passenger Ship Act and the Jones Act while permitting the Port of Seattle to compete for cruise traffic. The Alliance therefore urges this Committee to reserve judgement on this issue until we have an opportunity to put an alternative proposal forward next year.

STATEMENT OF HENRY M. ARONSON FOR THE PORT OF SEATTLE

Mr. Chairman, my name is Henry M. Aronson and I am the Commission President for the Port of Seattle. It is in that capacity that I am submitting testimony today on S. 2729, legislation to permit foreign-flag vessels to carry passengers between Alaska and Seattle, Washington on one-way voyages.

This is a very difficult and sensitive issue for the community of Seattle and the region, and we are aware that a number of vital interests are potentially effected by this bill. The Puget Sound Cruiseship Alliance has submitted testimony about the potential economy benefits to the Seattle economy should the Port of Seattle be allowed to act as a terminus for cruise vessels operating in the Alaska trade. The Port of Seattle agrees with that economic assessment.

Morever, the Port of Seattle enthusiastically concurs with the testimony presented by the Puget Sound Cruiseship Alliance about the potential benefits to the community of capturing some of the cruise business currently monopolized by Vancouver, B.C. Seattle is a great port city which provides the logical terminus for the Alaska cruise business. In this time when economic development is the appropriate obsession of every community, it has become increasingly difficult to explain to those in our community why British Columbia has this business and our community does not. As a drive of economic development in the Puget Sound region, the Port of Seattle welcomes any change in the law which would allow our region to share in this lucrative trade.

On the other hand, other segments of our community have raised valid and legitimate concerns about S. 2729 and H.R. 3681, a similar bill introduced in the House of Representatives last year by Congressman Young. Many of the parties who have expressed concerns are long-time, valuable customers and allies of the Port of Seattle.

It is the Port's unerstanding that it would be very difficult to enact legislation this year due to the Senate's already overburdened schedule. The Port of Seattle has therefore decided to take advantage of this opportunity to outline some of the issues which may arise should the Committee continue to pursue this or other legislation in the next Congress. They are as follows:

(1) *S. 2729 is a permanent exemption from the Passenger Ship Act.*—The Port of Seattle is a strong supporter of our nation's cabotage laws. Permanent ad hoc exemptions to the Passenger Ship Act or other Jones Act-related statutes should be discouraged as a general proposition. The right to carry cruise passengers in the domestic trade should be preserved for the domestic industry. At this time no such industry exists for the Alaska trade. The Port recommends that legislation be temporary in nature until such time that there is a emergence of a domestic industry intent on operation in the Alaska trade.

(2) *S. 2729 may act as a disincentive for the establishment of a domestic cruiseship industry.*—In an era of tight Federal budgets, there is little that Congress can do to artificially stimulate a domestic cruiseship industry for the Alaska trade. The Congress must be careful, however, not to eliminate the existing incentives for creating such an industry in the future. It would therefore be appropriate and desirable for any legislation to have some built-in mechanism to allow domestic operators to "reclaim" the Alaska trade if those operators otherwise decide to bear the risk of entering the Alaska market.

(3) *S. 2729 is perceived as permitting competition with the Alaska Ferry System.*—The Passenger Ship Act currently protects the Alaska Ferry System from competition for the carriage of ferry passengers and cargo by foreign-flag carriers. The ferries were built in the United States and are manned by U.S. seamen. Any legislation should clarify in actual bill language that the Ferry System shall not be adversely affected.

(4) *The scope of S. 2729 is too narow.*—The legislation permits a waiver of the Passenger Ship Act solely for Alaskan ports and the Port of Seattle. There are other U.S. ports on the West Coast which may wish to compete for the foreign-flag cruiseship business destined for Alaska. The Port of Portland comes to mind as an immediate example. If the existing restrictions are lifted in some manner, the eligibility

of ports to participate should be determined by market factors. It should also be clear that any legislation should be directed *solely* at the Alaska trade, and not other reigons of the nation where the lack of domestic competition is not so clear-cut.

The Port of Seattle does not wish to leave the Committee with the impression that it opposes the efforts being made to give U.S. ports an opportunity to compete with Canadian ports for the Alaska trade. On the contrary, we strongly support the intent of Senator Murkowski's legislation if not its actual design, and we cannot overstate how important this business would be to the Greater Seattle community.

The Port of Seattle submits that the threshold issue which should be considered by the Committee during the Congressional recess is as follows:

Is it possible to draft legislation which will permit U.S. ports to compete with Canadian ports for Alaska cruise traffic while at the same time preserving the integrity of the U.S. cabotage laws?

We believe that the answer to this question is a resounding "Yes!". Both the Cruiseship Alliance and the Port of Seattle have expanded substantial time and investment in trying to come to grips with this difficult problem. We are currently engaged in a joint effort to draft an option or series of options which we hope to present to the Congress early next year. It is our belief that the objectives we seek can be accomplished without setting the stage for a future erosion of the cabotage protections. And, it is our intent that any proposal submitted to the Congress *reaffirm* the importance and integrity of those protections. The Port of Seattle therefore urges the Committee to postpone any decision on this issue until we have had an opportunity to present a more comprehensive approach to Congress.

In closing, the Port of Seattle strongly desires a share in the Alaska cruise business, and we are ready to assist in creating an approach which will meet this objective.

STATEMENT ON BEHALF OF FOSS MARITIME CO.

Mr. Chairman and members of the Subcommittee, I am Thomas V. Van Dawark, President and Chief Executive Officer of Foss Maritime Company (Foss). I appreciate the opportunity to submit this statement to the Subcommittee concerning S. 2728 and S. 2729.

Foss is a nonsubsidized, domestic tug and barge company providing harbor services and regional towing in the Pacific Northwest and Southern California and ocean towing services worldwide. In addition, Foss maintains a shipyard in Seattle and has extensive environmental and pollution cleanup capabilities in the Pacific Northwest. Recently, one of Foss's subsidiaries has commenced regular service between Alabama and Puerto Rico and Foss has just been awarded a contract by MSC to provide tug services to the U.S. Navy at the Submarine Base in Kings Bay, Georgia. Foss had more than 125 modern, well-equipped vessels and has investments approaching $200 million in vessels, equipment and real estate with about 850 employees on the West Coast.

S. 2728

As a U.S. Flag Water Carrier which operates tugs and barges in the coastwise trade, employing U.S. crews, Foss strongly supports the Jones Act. The Jones Act, of course, allows only American built, American owned, and American crewed vessels to engage in the "coastwise trade" between American ports. While there are currently several specific exemptions to the legislation it is Foss's view that before further provisos are enacted, Congress should carefully investigate the circumstances that supposedly justify a change in the Jones Act. Foss believes that such changes should only be made when absolutely essential to the national interest., There is no evidence that this is the case with regards to the possible movement of coal from Alaska or other mainland U.S. points to Hawaii.

Foss stands ready to provide transportation service for Alaskan shippers, but there is only one producing coal mine in Alaska today, and that shipper is presently unable to provide information on volume or frequency of prospective coal shipments or to give other necessary data. It is, therefore, not possible to develop transportation rates, much less calculate comparative shipping cost differentials between U.S. and foreign flag carriers. Without this information, Foss and other Jones Act carriers have not has a fair opportunity to develop proposals for movement of Alaskan coal; and until there has been such an opportunity, it would be premature and unfair to conclude that the Jones Act adversely affects the competitiveness of Alaskan coal.

In our current environment, the tug and barge industry is already over capacity with too much equipment seeking what little work remains. To allow the entry of foreign flag carriers would only serve to penalize those American ship owners who have maintained American flag vessels with American crews through these tough economic times.

Therefore, Foss strongly opposes passage of S. 2728. It may well be that Jones Act carriers can offer service at reasonable rates. Even if they cannot, however, any legislation to improve the competitive position of Alaska coal, must consider all relevant factors, not just shipping rates.

S. 2729

Like the Jones Act, the Passenger Service Act was designed to strengthen the American Merchant Marine. We believe that any exceptions to either the Jones Act or the Passenger Service Act must be based on well documented, unique circumstances which might require narrow, specific exemptions to the legislation.

We believe that if Congress seriously considers this legislation, then it should also seek ways to strengthen the Jones Act, such as enactment of legislation to close the "third provisio" to the Jones Act (which allows foreign vessels and foreign crews to provide service in domestic commerce through Canadian Ports). Legislation to accomplish this ~~passed~~ the House of Representatives in 1982, but not the Senate.

Thank you for the opportunity to present our views on these bills.

A T
American Trading Transportation Company, Inc.
555 Fifth Avenue
New York, N. Y. 10017
Telephone (212) 682-7722

Telex:
710-581-4277 A/B ATTRANSCO

Cable Address:
"ATTRANSCO NEW YORK"

September 22, 1988

The Honorable John B. Breaux
Chairman
Senate Merchant Marine Subcommittee
SH-425 Hart Senate Office Building
Washington, D. C. 20510

Re: Jones Act Restrictions
S-2728; S-2729

Dear Sir:

We are writing to you to voice our objections to Senate Bills 2728 and 2729, bills which would waive Jones Act restrictions on foreign ocean carriers in the Alaska trade.

American Trading Transportation Company, Inc. is the owner and operator of five U. S.-flag tankers ranging in size from 34,124 to 57,884 deadweight tons. All of our tankers were built in the United States and are manned by U. S. crews. As a result, all of our vessels have domestic coastwise trading privileges and we rely on domestic coastwise voyages for the majority of our revenue.

We are unalterably opposed to any waivers of the Jones Act, no matter how limited the exception or special the circumstance. If the United States is ever to rebuild its merchant marine, it must provide cargo opportunities to those who have built or will build vessels which are qualified under the existing laws of this country to carry the cargo. Neither our Congress nor our Maritime Administrator should grant waivers which undermine Jones Act vessel investments which have been made or discourage future investment in Jones Act vessels out of fear that the law will be changed or a "special exception" made. Stability of our laws and prosecution of their violation is a cornerstone to providing the stable environment which will encourage investment in U. S.-flag Jones Act vessels. Granting exceptions and waivers has the opposite effect and guarantees that no new investment in U. S.-flag shipping will be made.

We trust our views opposing such waivers will be considered carefully by the Committee during its deliberations on S-2728 and 2729. We also request that our views be included in the record and distributed to attendees at the hearing.

Very truly yours,

Sanford V. Schmidt
Sanford V. Schmidt
Vice President

GREATER SITKA
Chamber of Commerce, Inc.

September 23, 1988

Senate Committee on
Commerce, Science, & Transportation
Merchant Marine Subcommittee
425 Hart Senate Office Building
Washington, DC 20510-6125

RE: S.2728--Shipments of Coal Between Alaska & Hawaii

Dear Sirs:

The Greater Sitka Chamber of Commerce would like to go on record as supporting S. 2728.

The ability to ship coal between Alaska and Hawaii on non-USA ships will allow Alaska and the U.S. to be competitive with foreign interest.

If the competitive edge of the non-USA ships will allow us to save many USA mining and support jobs that would be lost to foreign companies outside the USA, then passage of this bill is warranted.

It appears that the non-competitive ability of our domestic maritime industry on this particular situation is good reason to pass this bill in order to further save USA employment and give back the equal competitive spirit of the USA in the world marketplace.

Sincerely,

David E. Moore

David E. Moore
President

DM:ep

POST OFFICE BOX 638 • SITKA, ALASKA 99835
(907) 747-8604

GREATER SITKA
Chamber of Commerce, Inc.

September 23, 1988

Senate Committee on
Commerce, Science, & Transportation
Merchant Marine Subcommittee
425 Hart Senate Office Building
Washington, DC 20510-6125

RE: S.2729--Transportation of Passengers Among Ports in Alaska

Dear Sirs:

The Greater Sitka Chamber of Commerce would like to go on record as supporting S. 2729.

We believe in supporting the USA maritime industry, but in the case of large passenger vessels, the USA has none operating at this time in Alaska.

The large volume of traffic being forced to using Canadian ports for departures and arrivals is causing millions of U.S. dollars to be spent outside of the USA. If the cruise lines had the opportunity to depart to Alaska from Seattle and ship passengers between Alaskan ports, this money would support employment in Alaska and USA. Not only the money being spent by the passengers would be realized, but also the goods and services would provide additional employment to the regions involved.

As this bill is written, it would not conflict with American-built ships, as the size limitations would not allow direct competition.

We see this bill as a way to meet foreign competition without hurting American interest until such time as the United States has maritime ships in this market.

Sincerely,

David E Moore

David E. Moore
President

DM:ep

POST OFFICE BOX 638 • SITKA, ALASKA 99835
(907) 747-8604

September 14, 1988

The Honorable Frank Murkowski
709 Hart Building
Washington, D.C. 20510

Dear Senator Murkowski:

Just by chance, I was informed that you have introduced two pieces of legislation on the same legislative day which have long-range effects on your constituency. Why a Senator for Alaska would spearhead the drive to make it possible for Seattle to corner the tourship market is hard for me to understand. Certainly we have had their Congressional opposition to such important legislation as the Anwar and Tongass bills. Is it political debts or political ambition? I doubt it will enhance the Republican cause in November!

Frank, you and Don Young have opened a can of worms. There is no way cruiseships will buy their groceries, fuel, or other supplies at Alaskan prices. I doubt if they would consider having laundry processed in an Alaskan port. It is unlikely that the average tourship passenger would travel by air to Alaska to take a cruiseship based in an Alaskan port.

By passing this legislation, you can forget the Alaska Marine Highway and the valuable service it provides to Southeast Alaska. The cruiseships will cream off the summer traffic and then bid a fond farewell during the remaining nine months. In the meantime, the ferry system will have to be satisfied in transporting students to their school activities and Alaskans for their rare visits between ports. It will reduce the cost of transportation in the Alaska State Budget, but so too, it will eliminate a majority of jobs and curtail service.

Apparently you have failed to read the report prepared for Congress on the current status of our merchant marine. One of the primary duties of Congress is to provide for our common defense. In that report, we are warned about our weak position. The American Legion has taken the following position for several years: "The American Legion asks the government to work with maritime labor and management to reactivate the 1970 merchant marine act and rebuild the U.S. shipping fleet to a No. 1 position. It urges Congress to provide construction and operating differential subsidies for the Merchant Marine, and the Navy Department to establish a separate office to oversee research, development and deployment of defense systems for merchant vessels, including arming them with aircraft, missiles, and sensors". You and I know that in a major conflict, planes cannot provide transportation necessary for men and materials. It appears strange that Congress can provide subsidies for the farmers, tobacco industry, dairy products, the airlines, and nothing for the maritime service. We wouldn't have a fleet in the Middle East if we hadn't reflagged foreign ships.

In your news release "you pointed out that production and transportation subsidies by Australia and Canada have served to give coals a competitive advantage over coals of American sources". This is your reason for seeking a Jones Act waiver for Hawaii-Alaska trade. Has it occurred to you that perhaps the U.S. might provide similar incentives?

As one Alaskan who saw this country miraculously escape the brink of disaster at the start of WW2, due to our lack of preparedness; as one who would appreciate efforts to regain our No. 1 stature in the world of commerce with a merchant and passenger fleet second to none; as one who would like to see our Congressional delegation dispose of their current proposals and take the leadership in rebuilding America; I sincerely urge that you take this matter under consideration.

Sincerely,

Shepard
Les Shepard

P.O. Box 9092
Ketchikan, Ak. 99901
Sept. 20, 1988

Senator Frank H. Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski:

I have reviewed your two bills, S.2728 and S.2729 and your testimony pertaining to them before the Committee on Commerce, Science, and Transportation. These two bills strike very close to home, since I have been involved with the U.S. Merchant Marine for the past 30 years.

It is very difficult for me to understand why you and Representative Don Young are so willing to support foreign flag interests, when you should be supporting the regrowth of our U.S. flag fleet. Why don't you introduce bills that would offer strong financial incentives for vessels to be built in U.S. shipyards? Then they could proudly fly the U.S. flag and employ U.S. citizens as crew and engage in the transport of cargo/passengers between U.S. ports.

The national defense interests of the United States, alone, make it imperative that you find ways to encourage the building of ships in the United States. A report to the President of the sorry state of the U.S. Merchant Marine was completed last year and makes very interesting reading, in case you haven't had time to read it. It states that our Merchant Marine is in such a terrible condition that it may not survive beyond the early 1990's. It points out that if we had another Vietnam type war we would not be able to provide the ships to support our troops. I hope this concerns you as much as it does me. So, why are you introducing bills that will make it even more difficult for our beleagured Merchant Marine to survive?

If a subsidy is required, so be it. All national defense requires a subsidy and we subsidize the farmers to well over 20 billion dollars. If a subsidy program is properly implemented, many of the ship owners would find a way to make their operations pay.

If you and Don Young don't convince me that you are going to give American flag interests equal opportunity, then I'm going to find some democrats to support and vote for.

Sincerely,

Arthur L. Johnson
Arthur L. Johnson

KETCHIKAN
VISITORS BUREAU

September 23, 1988

Senate Committee on Commerce, Science, and Transportation
Subcommittee on Merchant Marine
425 Hart
Washington, D.C. 20510-6125

Dear Committee Members,

The Ketchikan Visitors Bureau is in full support of the proposed exemption to the "Passenger Ship Act" to allow foreign-flag cruise ships to be based out of Southeast Alaska.

Ketchikan has an excellent opportunity to increase economic benefits to the community by the relocation of two Exploration Cruise Lines' ships if an exemption is approved. The attached outline, compiled with figures supplied by Exploration, indicates a major impact from currently serviced vessels in the community. By allowing the relocation of the Northstar and Explorer Starship to Ketchikan, these figures would increase dramatically. Increases in hotel occupancies, restaurant uses, tours, sportfishing, sales tax impact, and other related services would be realized and provide additional purchasing power and jobs for the citizens of Ketchikan. Not only would Ketchikan realize an economic impact, so would the entire State of Alaska. Basing cruise ships in Southeast Alaska would benefit all other communities currently on their cruise itineraries and possibly add others not served.

Ketchikan has made a consistant commitment to the cruise industry by recognizing their needs and developing improved docking facilities. The City of Ketchikan is in the process of a major downtown development that will continue to incorporate improved docking facilities along with other amenities such as a new ANILCA Center, Museum, Hotel, and Community Center. This development, located on the old "Spruce Mill" site will add to Ketchikan's attraction base and provide yet another unique experience for Alaska's visitors.

In addition to the direct benefits and related support service businesses, this exemption proposal will also provide additional jobs and further Alaska's efforts to increase the tourism industry.

Thank you for your consideration on this subject.

Sincerely,

Leeta Rice

Leeta Rice
Executive Director

LR:kv

Phone (907) 225-6166
131 Front Street, Ketchikan, Alaska 99901

The American Waterways Operators

Executive Offices

1600 Wilson Boulevard
Suite 1000
Arlington, VA 22209

Tel. 703 841-9300

Joseph Farrell
President

September 28, 1988

Honorable John B. Breaux
Chairman, Merchant Marine Subcommittee
Commerce, Science and Transportation Committee
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The American Waterways Operators (AWO), the national trade association representing the inland and coastal U.S. barge and towing industry and small- to medium-sized shipyards, is submitting our comments for the record in opposition to S. 2728 and S. 2729.

S. 2728 would allow foreign-flag vessels to transport coal from Alaska to Hawaii. S. 2729 provides for the use of foreign-flag carriers to transport passengers among ports in Alaska and between ports in Seattle and Alaska.

AWO members operate barges and towing vessels on our nation's inland waterway system, along the Pacific, Atlantic and Gulf coasts, and to Alaska, Hawaii and the Caribbean. The American barge and towing industry operates 7,000 coastal tugboats and inland river towboats and over 32,000 barges, serves over 200 U.S. inland and coastal ports and employs a work force of nearly 180,000. More than 50% of onboard jobs are in our industry. Over 200 U.S. shipyards, involved in vessel construction and repair, provide employment for approximately 12,000 people. 40% of all our nation's petroleum and petroleum products are moved by the barge and towing industry, over half the grain exported by the United States is carried by barge, and we transport over 20% of all coal produced in the United States. Our vessels transport approximately 15% of the nation's intercity freight for just 2% of the total freight bill.

Virtually all maritime nations have cabotage laws. The U.S. cabotage law, often referred to as the Jones Act, was enacted for economic stability of the domestic maritime industry and national security reasons. As for the national security component of the Act, it was designed to insure that there are sufficient vessels and trained seamen necessary to support the U.S. in time of national emergency. For example, many decry the shortage of trained U.S. seamen, apparently forgetting that there are thousands of trained seamen in the Jones Act trade. Manifold economic considerations exist, one of which is often overlooked. All U.S. companies engaged in the coastal trade make their investment decisions based upon the sanctity of the Jones Act. Changing the perimeters of the Jones Act, just for that reason alone, is not something to be done with even the slightest caprice.

The Barge and Towing Industry Association

S. 2728 has aroused industry-wide concern, as it would waive the Jones Act to permit Alaskan coal to be transported in foreign-flag vessels to Hawaii.

It is foolish to sacrifice national defense for narrowly-applied economic gain and doubly foolish to give one state a coal-exporting advantage, which we believe is what S. 2728 would render. Our cabotage laws should not be changed without some imperative. Giving unfair advantage to Alaskan coal is hardly an imperative.

The Jones Act has established efficient and highly competitive transportation services which are crucial to our national defense. The Jones Act is arguably the most effective maritime promotional statute on the books. America's ability to defend itself depends, in part, upon a viable merchant marine. And, it must be noted that the Jones Act trade is intensively competitive; hundreds of U.S. barge and towing companies compete for domestic cargo.

Apparently, the proponents justify this legislation on economic grounds. We don't believe they can make their case. If Alaskan coal were to be exempt from the Jones Act, other coal-producing states would be placed at a severe disadvantage due to their inability to compete with the lower costs of utilizing foreign-flag vessels and crews. Obviously, this would not be fair. If Alaskan coal were exempt and other coals were then exempted to even out competition, the Jones Act would be effectively dismantled.

Neither approach makes sense.

Amendments to the Jones Act are not granted on the basis of economics or to confer special financial advantage. Upon appropriate request, the Secretary of the Treasury may, if "necessary in the interest of national defense," waive the Act. Such a standard prevents the Treasury Secretary from granting a waiver of the terms of the Act on economic grounds, no matter how helpful such action might be to the segment of the economy concerned. As such, Congress has quite properly waived the Jones Act only rarely, with compelling cause and without exposing U.S. security interests. S. 2728 doesn't fit any of these criteria.

S. 2729 would also circumvent the Jones Act and provide a financial edge to a specific sector by allowing foreign-flag vessels to provide passenger service between U.S. ports. As with S. 2728, it makes no sense to confer extra economic benefit on a selected segment to the detriment of other U.S. vessel owners, or, more importantly, to start another hemorrhage of the Jones Act.

Therefore, we oppose both S. 2728 and S. 2729.

Sincerely,

Joe Farrell

Joseph Farrell
President

Greater Ketchikan Chamber of Commerce
P.O. Box 5957, Ketchikan, Alaska 99901
(907) 225-3184

September 21, 1988

Honorable Frank Murkowski
United States Senate
709 Hart Building
Washington, D.C. 20510

Dear Senator Murkowski:

Thank you for your letter of September 8, 1988, regarding the hearings scheduled on S.2728 and S.2729.

The Greater Ketchikan Chamber of Commerce Board of Directors is in support of both pieces of legislation, as long as an amendment could be offered that would nullify the legislation if and when american built vessels would be available to replace the foreign-flagged vessels.

We appreciate hearing from you on this issue and look forward to the results of the hearings.

Sincerely,

Don Harrison
President
Greater Ketchikan Chamber of Commerce

Ketchikan, Ak. 99901
September 21, 1988

Senator Frank H. Murkowski
709 Hart Building
Washington, D.C. 20510

Reference: Your bills S.2728 and S.2729

Dear Senator Murkowski,

The Jones Act which you refer to as the "sacred cow" should be receiving your support not the opposite. You state that your bills are in order because no U.S. flag vessels are available to do the job nor are we encouraging the creation of new american jobs. Well why not? Instead of making it easier on foreign flag vessels why aren't you actively trying to increase our U.S. flag fleet?

The increase in U.S. flag vessel would provide jobs for American seaman, shipyard workers, longshoreman and other marine related industries, besides providing support to our armed forces in time of conflict.

I sincerely hope that you will withdraw your two bills and introduce a bill to increase our merchant marine fleet.

I remain a merchant seaman
and Alaskan voter.

Michael Crosby

ADOPTED AUGUST 1972

CITY of WRANGELL, ALASKA
INCORPORATED JUNE 15, 1903
BOX 531, 99929 (907) 874-2381

September 15, 1988

Honorable Frank H. Murkowski
United State Senate
720 Hart Building
Washington, D.C. 20510

Dear Senator Murkowski:

I have been following your legislation proposing shipments of coal on foreign vessels between Alaska and Hawaii, and legislation proposing the transport of passengers on foreign flag vessels among ports in Alaska and between points in Alaska and Seattle, Washington. Senate Bills 2728 and 2729 respectively.

As a long term Alaskan resident and mayor of a small town in the Alaskan panhandle I am constantly reminded of the economic constraints we are faced with because of our geographic remoteness to the rest of the Continental United States. We have no alternative transportation systems to access the markets in the United States and Canada. We are literally tied to sea or air shipping and this places us in a non-competitive position as opposed to our sister states in the lower "48".

I support the passage of S. 2728 and S. 2729 because it will help to improve our economic base and will allow us to compete in the world markets for tourism and energy raw materials, and create new jobs for Americans.

Sincerely,

Fern Niemeyer

Fern Neimeyer
Mayor

FN/jeg

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

P.O. BOX V
Juneau, Alaska
99811
(907)465-3744 or 4991

COMMITTEES
** Transportation
HESS
Telecommunications
Fisheries
International Trade

September 22, 1988

The Honorable Frank H. Murkowski
United States Senate
Washington, D.C. 20510

Dear Senator ~~Murkowski~~: Frank

I am taking this opportunity to express my support for both Senate Bills S.2728 and S.2729:

> S.2728 - A bill to permit coal to be transported between the State of Alaska to Hawaii via foreign flag vessel would, if enacted, permit our state to fairly compete in this trade and not only positively affect Alaska's economy but also help our nation in improving the lopsided balance of trade accruing to the benefit of such foreign countries as Canada and Australia.
>
> S.2729 - A bill to allow foreign flag vessels to carry passengers among ports in Alaska and Seattle, Washington would encourage greater tourist use of this beautiful voyage and positively affect Alaska's economy and tourist related employment.
>
> Since we are so highly seasonal, this potentially increased trade would mean more jobs and would not adversely affect U.S. flag ship operations.

Please register my positions on these bills at upcoming hearings. I appreciate the great job you are doing for Alaska in the U.S. Senate.

Respectfully,

Bill

Bill Hudson

BH/cm

AG Z085

REPRESENTING
ALASKA'S CAPITAL CITY

@) [illegible]

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